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# Parliamentary History.

VOL. XIV.

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THE

# Parliamentary History

OF

# ENGLAND,

FROM

THE EARLIEST PERIOD

TO

THE YEAR

1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED, "THE PARLIAMENTARY DEBATES."

VOL. XIV.

A. D. 1747—1753.

LONDON:

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1813.

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# PREFACE.

THE present Volume comprises the period from January 1747 to May 1753. Of the many very important Debates in both Houses, which it will be found to contain, *more than one half* never appeared in any former Collection. Of this number are the Debates on the Bill for disarming the Highlands and restraining the Use of the Highland Dress — on the Mutiny Bill — on the Bill for speedily Manning the Navy without distressing Trade — on the Bill for limiting the Time for Soldiers to serve in the Army — on the British Fishery Bill — on the Bill for annexing the Forfeited Estates in Scotland to the Crown unalienably — on the Westminster Election — on Mr. Murray's refusal to be reprimanded by the Speaker of the House of Commons upon his Knees — on the Regency Bill — on the Bill for Registering the Number of the People — and on the Bill for Naturalizing the Jews.

LONDON, 5, *Panton Square*,
*January* 28, 1813.

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| 1748. | - - - - - - - - - - ..... | Robert Drummond. |
| 1747. | - - - - - Bangor ..... | Zachariah Pearce. |
| 1743. | - - - - - Bath and Wells ..... | Edward Wills. |
| 1738. | - - - - - Bristol ..... | Joseph Butler. |
| 1740. | - - - - - Chichester ..... | Matthias Mawson. |
| 1730. | - - - - - Coventry and Litchfield ..... | Richard Smalbrooke. |
| 1749. | - - - - - - - - - - ..... | Hon. Frederick Cornwallis. |
| 1743. | - - - - - St. David's ..... | Richard Trevor. |
| 1752. | - - - - - - - - - - ..... | Anthony Ellis. |
| 1738. | - - - - - Ely ..... | Robert Butts. |
| 1748. | - - - - - - - - - ..... | Sir Thomas Gooch. |
| 1746. | - - - - - Exeter ..... | George Lavington. |
| 1734. | - - - - - Gloucester ..... | Martin Benson. |
| 1752. | - - - - - - - - - - ..... | James Johnson. |
| 1746. | - - - - - Hereford ..... | Lord James Beauclerk. |
| 1740. | - - - - - Landaff ..... | John Gilbert. |
| 1748. | - - - - - - - - - ..... | Edward Cresset. |
| 1740. | - - - - - Lincoln ..... | John Thomas. |
| 1723. | - - - - - London ..... | Edmund Gibson. |
| 1748. | - - - - - - - - - ..... | Thomas Sherlock. |
| 1738. | - - - - - Norwich ..... | Thomas Gooch. |
| 1748. | - - - - - - - - - ..... | Samuel Lisle. |
| 1749. | - - - - - - - - - ..... | Thomas Hayter. |
| 1737. | - - - - - Oxford ..... | Thomas Secker. |
| 1747. | - - - - - Peterborough ..... | John Thomas. |
| 1731. | - - - - - Rochester ..... | Joseph Wilcocks. |
| 1738. | - - - - - Salisbury ..... | Thomas Sherlock. |
| 1748. | - - - - - - - - - ..... | John Gilbert. |
| 1734. | - - - - - Winchester ..... | Benjamin Hoadly. |
| 1743. | - - - - - Worcester ..... | Isaac Maddox. |

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1747. Bishop of Carlisle ..... Richard Olbaldeston.
1726. - - - - - Chester ..... Samuel Peploe.
1752. - - - - - - - - - - ..... Edmund Keene.
1730 - - - - - Durham ..... Edward Chandler.
1750. - - - - - - - - - ..... Joseph Butler.
1752. - - - - - - - - ..... Richard Trevor.

LORD HIGH CHANCELLOR.

1737. Feb. 21. Philip, Lord Hardwicke, (created Viscount Royston, and Earl of Hardwicke, 1754.)

PRINCIPAL SECRETARIES OF STATE.

1746. Nov. 4. Philip Dormer, Earl of Chesterfield, vice Lord Harrington.
1748. Feb. 13. John, Duke of Bedford, vice Lord Chesterfield.
1751. July 12. Robert, Earl of Holderness, vice the Duke of Bedford.

SPEAKER OF THE HOUSE OF COMMONS.

1727, 1735, 1741, 1747. Arthur Onslow, Esq.

COMMISSIONERS FOR EXECUTING THE OFFICE OF LORD HIGH TREASURER OF ENGLAND.

1746. June. Hon. Henry Pelham, Chancellor of the Exchequer.
Charles, Earl of Middlesex.
George Lyttelton, esq.
Hon. Henry Bilson Legge.
John Campbell, esq.

1747. June 6. Hon. Henry Pelham, Chancellor of the Exchequer.
George Lyttelton, esq.
Hon. Henry Bilson Legge.
John Campbell, esq.
Hon. George Grenville.

1749. May. Hon. Henry Pelham, Chancellor of the Exchequer.
George Lyttelton, esq.
John Campbell, esq.
Hon. George Grenville.
Hon. Henry Vane (afterwards Earl of Darlington.)

MASTER OF THE ROLLS.

1741. Nov. 7. William Fortescue, esq.
1750. Jan. 13. Sir John Strange, knt.

ATTORNEY GENERAL.

1737. Jan. 26. Sir Dudley Ryder, knt.

SOLICITOR GENERAL.

1742. Nov. 27. Hon. William Murray (afterwards Lord Mansfield)

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# Parliamentary History.

## 20 GEORGE THE SECOND, A. D. 1747.

SIXTH AND LAST SESSION
OF THE
SIXTH PARLIAMENT
OF
GREAT BRITAIN.

[*Continued from Vol. XIII.*]

*RETURNS of the Lords of Sessions, concerning Heretable Jurisdictions in Scotland.*] January 22, 1747. Lord Chancellor Hardwicke acquainted the House of Lords, "That he had received from the Lord President of the Court of Session in Scotland, in a Letter from his lordship, two Returns from the Lords of Session there, to the Orders of this House of the 5th of August last; in which Letter he desired it might be signified to the House that though, for the reasons in the Returns mentioned, the said Lords have not been able to give them the satisfaction which the House expected, and they wished; yet, when those difficulties shall be removed, and the intentions of the House signified to them, they shall leave nothing undone, that in them lies, to prepare draughts of Bills, or Clauses, for making effectual provision for the regular administration of justice, in that part of the United Kingdom, by the king's courts and the judges thereof."

Which Returns were read by the clerk, and are as follow:

"To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled.

"May it please your Lordships,

"In humble obedience to your lordships' Order of the 5th of August, directing the Lords of Session to prepare the draught of a Bill, for remedying the inconveniences arising from the several kinds of Heretable Jurisdictions in that part of Great Britain called Scotland, and for making more effectual provision for the regular administration of justice throughout that part of the United Kingdom, by the king's courts and judges there; and to cause such draught of a Bill to be laid before the House at the beginning of the next session of parliament: they, having taken the matter recommended to them into their serious consideration; and observing, that it is impossible to make effectual provision for the regular administration of justice, confining the same to the king's courts and judges in this part of the United Kingdom, without taking away several kinds of Heretable Jurisdictions, which, by the Articles of the Union, are secured to the proprietors as rights of property, and therefore cannot without due satisfaction, be taken from them; have judged it improper for them to present your lordships with the draught of a Bill, that should set out with extinguishing those rights of property, or should proceed on a supposition that no such rights subsist, when they verily believe many do, though, from the imperfection of the records, they have not been able to give your lordships the satisfaction you expected on that head.

"But as they are extremely desirous to contribute, so far as in them lies, to the execution of your lordships' design, of remedying the inconveniencies arising from the several kinds of jurisdictions, and of making more effectual provision for the regular administration of justice in this part of the kingdom; they shall take the liberty of suggesting some matters that may be proper to be in your lordships eye when you re-assume the consideration of this subject.

"In the entry, as one of the principal causes of lodging high jurisdictions in powerful families heretofore was the great



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difficulty the government was under of bringing offenders to justice, and executing the laws, when the country was yet uncivilized, and the necessity of committing that charge to such as were able to execute the same; and as that part of the United Kingdom, commonly called the Highlands of Scotland, has at all times been, and at this day is, in a state so unsettled, that offenders are not from thence easily amenable to justice, nor can process of law have free course through it; due care must be taken, to bring that part of the country under subjection to the law, and to secure the execution of process of all kinds within it, before any hopes can be entertained of seeing a regular administration of justice by the king's courts and judges there.

"This desirable end being obtained: it is proposed:

"1. That circuit courts be held, twice in every year, at Glasgow, Stirling, Perth, Aberdeen, and Inverness, where offenders from the Highlands and other places may be brought before the king's judges, and be tried for their offences: but, until some shelter and accommodation shall be provided in other places in the Highlands where it may be thought proper to hold circuit courts, it seems impracticable for the king's judges to carry their circuits into the body of the Highlands, whatever good effects might be expected from their presence there.

"2. As one of the greatest inconveniencies resulting from the inferior jurisdictions is the dependance upon the lord of the jurisdiction, arising from the power of inflicting capital or other severe corporal punishments; it may be considered, whether, as a regulation of the public policy, the trial of all crimes inferring the loss of life or demembration may not be confined to the High Court of Justiciary at Edinburgh, or to the judges in their circuits; leaving to the lords of the respective jurisdictions the escheats resulting for the several convictions, to which they have right by their charters. But as the restraining sheriffs, stewarts, or the judges of other inferior jurisdictions, which by the wisdom of parliament shall be thought proper to be continued, from trying offenders even for crimes which infer the loss of life or demembration, may be attended with inconveniencies to the subjects, making it necessary that persons committed should often lye long in gaol before trial, whereas the speedy administration of justice often contributes greatly to the attaining the proper ends and purposes thereof; it is humbly submitted, whether the inferior jurisdictions may not be allowed to proceed as formerly on all trials; but with this proviso, that, in cases where a sentence is pronounced by an inferior judge, which reaches either life or limb, such sentence should be forthwith reported to the justice court, with a full copy of the trial, in order that the justice court, upon examination thereof, may approve of the same, or discharge the execution of the sentence, or commute the punishment, and return their orders to the court where the trials were taken.

"3. The law of this part of the United Kingdom has retained trials by juries in all capital and other crimes that are atrocious; but has departed from the use of juries in almost all civil cases, and has lodged the power of determining on the import of the evidence, in such cases, in the judges, with great advantage to the suitors, and to the general satisfaction of the subjects. It has also denied credit to parole evidence for the establishment of debts and contracts of divers kinds, and relies on written documents in such cases; and for the recovery of such documents, when necessary in judgment, different processes are contrived; from all which it is apparent, that civil cases in this country require a form of proceeding that is inconsistent with the shortness of the abode judges can make on their circuits in any one station; and therefore the criminal causes are and may by them be tried, to the great advantage of the subject, and peace of the kingdom: civil causes cannot.

"4. By the law of this part of the United Kingdom, all parole evidence given in criminal cases must be reduced into writing, and be made part of the record; which occasions great and unnecessary loss of time to the court, and raises the expence of the extract. Now though in criminal proceedings before an inferior magistrate, whose sentences are liable to review, it may be necessary to continue the practice as it now is; yet it will tend much to the dispatch of business, and to the ease of the subject, to supersede the necessity of reducing into writing the parole evidence to be given in the High Court of Justiciary, or before the judges in their circuits. And, lest any unforeseen inconvenience should hereafter arise from what is now proposed, the provision may be temporary.

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"5. The subjects of this part of the kingdom have found great benefit from the lower jurisdiction, that has at all times been in sheriffs, stewarts, and magistrates of boroughs, of trying lesser offences, and civil actions of small consequence. By the law of this part of the kingdom, no civil action, where the demand is under 200 merks Scots, or 11*l.* 2*s.* 2*d.*$\frac{2}{3}$ sterling, can be tried, in the first instance, before the Court of Session; but must commence before the inferior magistrate within the county, where justice may be had at home, and without great expence; and the immediate punishment of petty offences, in the least expensive manner, has, at all times, been attended with advantageous effects. Now, as this speedy and easy way of coming at justice, in the course whereof if any wrong shall be committed it may be summarily set to rights by the process of suspension, in the nature of an appeal to the higher court, is of considerable utility; it may be considered, whether, though expediency may require the confining the trials of all crimes inferring capital or any kind of corporal punishments, such as have been already described, to the High Court of Justiciary and the judges thereof in their circuits, the jurisdiction of the sheriffs and other inferior magistrates respecting lesser offences, and the determination of civil causes, as now established, ought not, from regard to the utility thence derived to the public, to be confirmed, and those inferior magistrates encouraged to do their duty.

"6. What is more particularly meant by what has been just suggested is, that whereas sheriffs and stewarts have at present no other legal reward for doing their duty than sentence money, which is a sort of poundage out of the sum decreed for; if this sentence money were discharged, and in place thereof a reasonable salary were allowed to the judge, in proportion to the valued rent of such shire or stewartry; and if the judge were to have the holding of his office 'quamdiu se bene gesserit,' or, in the law language of this country, 'ad vitam aut culpam;' men would soon be found willing to qualify themselves for the discharge of such offices, and desirous to continue in them by the faithful discharge of their trust; so that it would then become a matter of less moment by whom such judge was appointed.

"7. Though the high jurisdiction, which, by the grant of pit and gallows, is in barons, may very properly be restrained; yet it seems to be expedient, not only that the baron's jurisdiction, in respect to the recovery of his rents, but also that his authority with respect to the correction of lesser offences and trespasses, and the recovery of small debts due by one tenant to another, be left entire; as the preservation of the peace and of good neighbourhood, without engaging the lower class of mankind in expensive law suits, seems to be of great consequence.

"These considerations the Lords of Session, who have not, for the reasons assigned, been able to prepare the draught of the Bill expected, have humbly presumed to lay before your lordships, that your lordships may have possession of what appears to them fit to be done, and to be avoided, on the subject of your Order; and that your lordships may see how desirous they are, so far as they are able, to obey your commands.

"All which is most humbly submitted,

"DUN. FORBES, Pr."

"*Edinburgh, 9th Jan.* 1746-7."

**"To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled.**

"May it please your Lordships,

"In humble obedience to your lordships' Order of the 5th of August, directing the Lords of Session to enquire and consider what regalities and heretable sheriffships are subsisting within that part of Great Britain called Scotland, what persons are now in possession thereof, and which of such regalities were granted before the act of the 11th parliament of king James the second of Scotland, intituled, "That all regalities being in the king's hands be annexed to the royalty," and which of them since; and as to such of them as have been granted since, which of them were granted with deliverance in parliament, and which without; and to certify the same to the House at the beginning of the next session of parliament; they have applied themselves with all diligence to the execution of your lordships' commands; and have, by inspection of the records of charters, retours, and proceedings in parliament, by committees of their own number, and by examination of the officers appointed to keep them, done all that is in their power to procure to your lordships the satisfaction you expected, but without success; as all that could be discovered from these records, after a search of many years, could not produce



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any complete answer to the question your lordships are pleased to put: for though in the Register House there appears several rolls of charters, down from the reign of king Robert the first to that of king James the first of Scotland, and from thenceforward books in each reign, into which great numbers of charters are transcribed;

"Yet, 1st, it does not appear, nor can it, that the series of these rolls or books is complete, because the entries of these charters are not made in them regularly in order of time, but charters of a later date are followed by others in the same book of a date many years earlier; so that there may have been several intermediate books between those that now appear, for any thing that can be certainly known; for there is no minute book now appearing, in which the passing these early charters at the seal has been entered.

"2. Though all the records of charters that ever existed were now extant, the satisfaction expected would not thence flow; because it is a known fact, that many of the charters that passed the seals were not recorded, partly from the neglect of officers, and partly from the impatience of those who obtained them, as there was no penalty attendant upon the omission to record such charters, which gave rise to the act 7th, 3rd session parliament 2nd, king Charles 2, Anno 1672, intituled, "Act concerning writs passing the great and privy seal;" whereby, on a recital, that the service of the crown, and the interest of the subject, had been much prejudiced by the neglect of registrating charters, &c. which pass and are written to the great and privy seals, it is, for remedying and preventing of this evil for the time to come, ordained, "That all charters, &c. which thereafter should pass under the great or privy seals, should be registrated in the registers of these seals, respectively, before the seals be appended to them:" And yet, from the examination of the officers, it appears that, this act of parliament notwithstanding, many charters have between the date thereof and the Union past the great seal, which do not appear in the records thereof.

"3. Many of the books of the records of charters still extant are in so bad condition, some of them being damnified with sea water, and so defaced and obliterated in several places, as not to be legible; some of them having had leaves by accident or design torn out of them here and there; and others of them having leaves of blank paper unfilled up still appearing in them; that it is impossible to rely on them for a discovery of what charters may have been granted.

"Such is the condition of the record of charters: and the record of retours can yield no clearer light, as the like practice has prevailed in the one case as in the other; after the precept for infeoffment was issued, it was usual to carry it away, on promise to return it in order to recording; but infeoffment being once taken, as no penalty attended the not recording, it never was returned; and thence has flowed the imperfection of that record, which is by the present officer better taken care of than heretofore it has been.

"For it is to the penalty annexed to the neglect of pursuing the directions of the statute made in that behalf, that the perfection of the register of seasiness, inhibitions, &c. in this part of the kingdom, and from which it reaps so much advantage, proceeds: by the statutes appointing these registers, the earliest whereof is in the 1617, the instrument, if not registered within a certain number of days, is declared to be ineffectual; and therefore these registers at this day effectually answer the purposes for which they were intended.

"Had the records already mentioned yielded any light; the next step would have been, to have consulted those of parliament, to see whether in them any such deliverances as are mentioned in the act of king James the 2d could be met with, at the date of the respective erections or grants; but, as there was no certainty that those erections or grants could be discovered from the records of charters, it became unnecessary to be very inquisitive about such deliverances in parliament as might have attended them: besides that, upon viewing what are called the records of parliament, such as precede the reign of king James the sixth, do not appear to be attended with such marks of authority as to give them all credit, or to give evidence that there were none other: the keepers had an opinion, founded on tradition, that several of the records of parliament lie in the castle of Edinburgh, locked up in the room where the crown of Scotland was deposited at the time of the Union; but what ground there is for this tradition, does not appear; and the court has no authority to order inspection of what may be lodged in that room.

"Thus it will appear to your lordships,

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that, though every line in the records relating to regalities and heretable sheriffships were collected together, which would be a work of several years, no certainty could from thence result, that many heretable offices, not vouched from these records, would not appear to be now subsisting, and lawfully established, upon production made by the proprietors, from their charter chests, of the charters, with deliverance of the parliament, if after the act of king James the second; or of the charter, if before that period, with retours and other proper conveyances thereof. Now, as the Lords of Session have no proper authority to compel the proprietors or claimants of such jurisdictions to exhibit their titles; and as the proprietors are not by act of parliament obliged to lay their titles before the court against a day certain, to enable them to form a judgment of their validity; your lordships will be satisfied, that it is not possible for them, as matters are at present circumstanced, to make to the House such a return as your lordships expected.

"All which is most humbly submitted,

"*Edinburgh, 9th Jan.* 1746-7.

"DUN. FORBES, Pr."

Ordered, That the said returns be taken into consideration on the 17th of February.

*Speech of Lord Chancellor Hardwicke on bringing in the Bill for Abolishing the Heretable Jurisdictions in Scotland.*] February 17. The order of the day being read, for taking into consideration the Returns of the Lords of Session in Scotland to two Orders of this House of the 5th of August last; the first directing the said Lords of Session to prepare the draught of a Bill, for remedying inconveniencies arising from several kinds of Heretable Jurisdictions there; and the other for their lordships to enquire and consider what Regalities and Heretable Sheriffships are subsisting: the said Returns were also read: which done;

The *Lord Chancellor* rose and said:*

My lords; when I made the motion to your lordships, which gave rise to the order of the day, to take into consideration the two Returns of the Court of Session, it seemed to be expected from me, that I should lend all the assistance in my power, towards making the Resolutions of this House, which produced them, effectual for the public good.

Your lordships' expectations are commands to me: and therefore I shall enter upon the task without any apology; well knowing at the same time, the great extent and importance, as well as the delicacy, attending some parts of it.

One of those Returns relates to the enquiry directed, concerning the Regalities and Heretable Sheriffships; upon which very little material arises. In it the Lords of Session inform you, the records of Scotland are in such a state, that they have been able to procure no satisfaction concerning the subsisting claims and rights to these jurisdictions: that the series of them is interrupted by long chasms, and very incomplete: a large number damaged by sea-water in the carrying back to Edinburgh after the Restoration, and now illegible: and the rest locked up in the same room with the crown of that kingdom in the castle of Edinburgh, which they apprehend themselves to have no authority of inspecting. The only reflection which offers itself here, was opened by me at large, to your lordships, the other day; that, if the evidence of right be, in general, so precarious, without any rule to ascertain and limit the number of private claims of jurisdiction, the matter becomes every day of still higher moment to the people of Scotland, than at first it appeared to be, from this strange peculiar circumstance attending it. For, if no charters can be found, or information had, from the records, every man who thinks fit, may set up such a claim; and the poor people, over whom the jurisdiction is exercised, have neither money nor strength to dispute it. The inconvenience will increase without controul, after this discovery made by the Lords of Session to all the world; so that an immediate remedy by law seems of absolute necessity.

The material Return on which the business, the great consideration of this day, arises, is that made pursuant to the Order, by which your lordships directed the Court of Session "to prepare the draught of a Bill, for remedying the inconveniencies arising from the several kinds of Heretable Jurisdiction in Scotland; and for making more effectual provision for the regular administration of justice throughout that part of the United King-

* This Speech is taken from a copy which his lordship caused to be printed for the use of his friends: presented to the Editor by the present earl of Hardwicke, A. D. 1812.

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dom, by the king's courts and judges there." In this Return, they decline complying with your Order for several reasons which they have assigned, to shew the general purpose of it improper or impracticable.

My lords, I have the honour to be well acquainted with some of the judges of that court; and know them to be very able, learned and honest men: and therefore I am fully satisfied, that the reasons, on which they have insisted, appeared to them of the greatest weight. But they will forgive me, if pursuing the clear and strong conviction of my own mind, that some extraordinary method must be taken in parliament to stop the progress of this mischief, I shall make the observations, which occur to me upon this Return, with great deference to their opinion, but with great freedom, such as I always use when I lay my thoughts before your lordships.

1. In doing this, I shall, in the first place, go through the several parts of the Return; and acquaint you, how far I agree or differ in the propositions laid down there; and then give your lordships my sentiments upon the whole.

2. In the next place, I will explain my general idea of the measure necessary to be taken to redress this great evil; and the reasons, which induce me to think it a right measure.

3. I will then open to your lordships the particular plan of the Bill, which I have prepared, for carrying this general measure into execution.

1. My lords, the first thing said by the Court of Session is this; "That it is impossible to make effectual provision for the regular administration of justice in Scotland, confining the same to the king's courts and judges, without taking away several kinds of heretable jurisdiction." In this I readily concur with them. Here I fix my foot: give me leave to say, there cannot be a stronger concession made in favour of the great design now before you.

They go on to tell you, "That these jurisdictions, by the treaty of Union, are secured to the proprietors as rights of property, and therefore cannot, without due satisfaction, be taken from them."

My lords; this seems to intimate some difficulty arising from the Articles of Union: but I freely own my opinion, that they will not stand in your way towards completing a work, so essential to the good of both kingdoms. Nobody holds those articles more sacred than I do: they are the *pacta conventa* between the two nations, to be religiously observed, inviolably maintained. Yet, consider to what consequences this objection leads. It leads to no less a question, than that of binding the legislature of the whole United Kingdom. In all countries, the legislative power must, to a general intent, be absolute; and therefore, upon treaties of this nature, strict and rigid constructions ought not to be made, and may prove dangerous. If they should be too easily given way to, incorporating unions would be impracticable; or become like the union of the kingdom of Poland and the great duchy of Lithuania, in which, by the many reserved powers and exemptions claimed on each side, which are understood not to be alterable by the general dyet of the union, their former marks of division are continued, and perpetual distractions have been kept up in that imperfectly and unskilfully united country. Your lordships will indulge me in stating the particular Article of the Union referred to by the Court of Session. It is the 20th of that treaty. "That all heretable offices, superiorities, heretable jurisdictions, offices for life, and jurisdictions for life, be reserved to the owners thereof as rights of property, in the same manner as they are now enjoyed by the laws of Scotland, notwithstanding this treaty." To expound this Article, it is necessary to ask the question, how were they enjoyed by the laws of Scotland before the Union? The answer is, subject to the power and legislative authority of the parliament of Scotland. In like manner they are now enjoyed, subject to the same authority vested in the parliament of Great Britain. The general provision of the treaty is, "That the laws of Scotland shall continue in their full force as before that treaty, but alterable by the parliament of Great Britain; with this difference between the laws which concern public policy, and those which concern private right, that the former may be made the same throughout the whole United Kingdom; but that no alteration be made in the latter, except for the evident utility of the subjects within Scotland." Consider this matter therefore as it concerns the public policy of the kingdom; it is clearly within the words of it: consider it as a matter of private right; the alteration proposed is for the evident utility of Scotland. The article, reserving these jurisdictions to the proprietors, was inserted out of caution, to prevent any general words, or provisions

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of other articles, from being construed to abolish them. Perhaps the just construction of the treaty would have been the same without it. But might not a doubt have been raised upon the fourth article, in which it is said, "that there shall be a communication of all rights, privileges, and advantages, which do or may belong to the subjects of either kingdom, except where it is otherwise expressly agreed in these articles?" Might it not have been suggested, that the subjects in England, either by act of parliament, or the successive resolutions of the courts at Westminster, controuling the exercise of such inferior jurisdictions, are freed from that inconvenience? They are under the immediate protection and authority of the king's courts, and the common law has an uninterrupted course: that this is a most valuable privilege, worthy to be communicated to the subjects in Scotland, virtually implied in this very article of the treaty, and meant to be extended to them by the operation of it. In order to prevent such doubts, the parliaments of both kingdoms agreed in this, as in many other instances, by a distinct article, to exclude this case from the force and effect of those general words, which I have repeated to your lordships.

The Court of Session have observed to your lordships, in the beginning of their Return, that these jurisdictions are, by the treaty of Union, 'secured' to the owners thereof, as rights of property. This is plainly an inaccuracy. For, in the article, it is only said, that they are 'reserved;' a term of much gentler import than the word 'secured.' This last might be construed to imply some additional strength or sanction given to them by the treaty, which they had not before: the former, in its strict and proper meaning, implies no more, than that they are to continue exactly in the same condition after the treaty, as before it. And the following words of the 20th article, "in the same manner as they are now enjoyed by the laws of Scotland," are only an exposition, or further explanation of that meaning.

But it may be said, "These jurisdictions are reserved as rights of property; and it is inconsistent with justice, or the maxims of a free constitution, to extinguish rights of property, without the consent of the proprietors." Your lordships see, that this objection admits of a very easy answer. Powers of judicature, from the nature of the thing, can never be enjoyed *in patrimonio*, or *in pleno jure proprietatis*, but are held in trust for the public benefit and advantage. And, as they were conferred for reasons of public utility, so they may be taken away for reasons of the same kind. It is true indeed, that these jurisdictions are so far considered in the law of Scotland, as rights of property, that they may be sold, mortgaged, or adjudged by creditors, which (by the way) is introductive of many absurdities: and perhaps the legislature of each kingdom, at the time of making the treaty, might carry the notion still further, so as to intend a compensation should be made for abolishing them, whenever that measure should be thought seasonable. But let that be as it will; these jurisdictions can never be called absolute rights of property, in the same sense, as land or money. For, if such a distribution of the powers of judicature might be deemed, in any future time, a wrong model for the administration of justice, it would be absurd, from this article, which only declares them to be "reserved as rights of property," and leaves them as they stood before the Union, to suppose them secured beyond the power of the legislature. Those great and able men, who framed the Union, had it clearly in their view, that an oppportunity would one day occur for taking away the heretable jurisdictions. This appears from the remarkable difference in the penning of the 20th article from the 19th, which concerns the courts of session and justiciary. These are not barely "reserved, notwithstanding the treaty," but it is said, "that after the Union, and notwithstanding thereof, they shall remain in all time coming, as then constitute by the laws of that kingdom." But this is not all. There is a manifest distinction in the 19th article itself, between the security given to those courts, and all the other courts mentioned or referred to in that article. The supreme court of admiralty is not stipulated to remain "in all time coming;" it is only enacted, That the court of admiralty now established in Scotland be continued, until regulation or alteration should be made by the parliament of Great Britain, "so as there be always continued in Scotland a court of admiralty, such as in England, for the determination of all maritime cases, relative to private rights in Scotland." Is it not then plain, that the present court of admiralty might be abolished, provided a new one were erected,

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dom, by the king's courts and judges there." In this Return, they decline complying with your Order for several reasons which they have assigned, to shew the general purpose of it improper or impracticable.

My lords, I have the honour to be well acquainted with some of the judges of that court; and know them to be very able, learned and honest men: and therefore I am fully satisfied, that the reasons, on which they have insisted, appeared to them of the greatest weight. But they will forgive me, if pursuing the clear and strong conviction of my own mind, that some extraordinary method must be taken in parliament to stop the progress of this mischief, I shall make the observations, which occur to me upon this Return, with great deference to their opinion, but with great freedom, such as I always use when I lay my thoughts before your lordships.

1. In doing this, I shall, in the first place, go through the several parts of the Return; and acquaint you, how far I agree or differ in the propositions laid down there; and then give your lordships my sentiments upon the whole.

2. In the next place, I will explain my general idea of the measure necessary to be taken to redress this great evil; and the reasons, which induce me to think it a right measure.

3. I will then open to your lordships the particular plan of the Bill, which I have prepared, for carrying this general measure into execution.

1. My lords, the first thing said by the Court of Session is this; "That it is impossible to make effectual provision for the regular administration of justice in Scotland, confining the same to the king's courts and judges, without taking away several kinds of heretable jurisdiction." In this I readily concur with them. Here I fix my foot: give me leave to say, there cannot be a stronger concession made in favour of the great design now before you.

They go on to tell you, "That these jurisdictions, by the treaty of Union, are secured to the proprietors as rights of property, and therefore cannot, without due satisfaction, be taken from them."

My lords; this seems to intimate some difficulty arising from the Articles of Union: but I freely own my opinion, that they will not stand in your way towards completing a work, so essential to the good of both kingdoms. Nobody holds those articles more sacred than I do: they are the *pacta conventa* between the two nations, to be religiously observed, inviolably maintained. Yet, consider to what consequences this objection leads. It leads to no less a question, than that of binding the legislature of the whole United Kingdom. In all countries, the legislative power must, to a general intent, be absolute; and therefore, upon treaties of this nature, strict and rigid constructions ought not to be made, and may prove dangerous. If they should be too easily given way to, incorporating unions would be impracticable; or become like the union of the kingdom of Poland and the great duchy of Lithuania, in which, by the many reserved powers and exemptions claimed on each side, which are understood not to be alterable by the general dyet of the union, their former marks of division are continued, and perpetual distractions have been kept up in that imperfectly and unskilfully united country. Your lordships will indulge me in stating the particular Article of the Union referred to by the Court of Session. It is the 20th of that treaty. "That all heretable offices, superiorities, heretable jurisdictions, offices for life, and jurisdictions for life, be reserved to the owners thereof as rights of property, in the same manner as they are now enjoyed by the laws of Scotland, notwithstanding this treaty." To expound this Article, it is necessary to ask the question, how were they enjoyed by the laws of Scotland before the Union? The answer is, subject to the power and legislative authority of the parliament of Scotland. In like manner they are now enjoyed, subject to the same authority vested in the parliament of Great Britain. The general provision of the treaty is, "That the laws of Scotland shall continue in their full force as before that treaty, but alterable by the parliament of Great Britain; with this difference between the laws which concern public policy, and those which concern private right, that the former may be made the same throughout the whole United Kingdom; but that no alteration be made in the latter, except for the evident utility of the subjects within Scotland." Consider this matter therefore as it concerns the public policy of the kingdom; it is clearly within the words of it: consider it as a matter of private right; the alteration proposed is for the evident utility of Scotland. The article, reserving these jurisdictions to the proprietors, was inserted out of caution, to prevent any general words, or provisions

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of other articles, from being construed to abolish them. Perhaps the just construction of the treaty would have been the same without it. But might not a doubt have been raised upon the fourth article, in which it is said, "that there shall be a communication of all rights, privileges, and advantages, which do or may belong to the subjects of either kingdom, except where it is otherwise expressly agreed in these articles?" Might it not have been suggested, that the subjects in England, either by act of parliament, or the successive resolutions of the courts at Westminster, controuling the exercise of such inferior jurisdictions, are freed from that inconvenience? They are under the immediate protection and authority of the king's courts, and the common law has an uninterrupted course: that this is a most valuable privilege, worthy to be communicated to the subjects in Scotland, virtually implied in this very article of the treaty, and meant to be extended to them by the operation of it. In order to prevent such doubts, the parliaments of both kingdoms agreed in this, as in many other instances, by a distinct article, to exclude this case from the force and effect of those general words, which I have repeated to your lordships.

The Court of Session have observed to your lordships, in the beginning of their Return, that these jurisdictions are, by the treaty of Union, 'secured' to the owners thereof, as rights of property. This is plainly an inaccuracy. For, in the article, it is only said, that they are 'reserved;' a term of much gentler import than the word 'secured.' This last might be construed to imply some additional strength or sanction given to them by the treaty, which they had not before: the former, in its strict and proper meaning, implies no more, than that they are to continue exactly in the same condition after the treaty, as before it. And the following words of the 20th article, "in the same manner as they are now enjoyed by the laws of Scotland," are only an exposition, or further explanation of that meaning.

But it may be said, "These jurisdictions are reserved as rights of property; and it is inconsistent with justice, or the maxims of a free constitution, to extinguish rights of property, without the consent of the proprietors." Your lordships see, that this objection admits of a very easy answer. Powers of judicature, from the nature of the thing, can never be enjoyed *in patrimonio*, or *in pleno jure proprietatis*, but are held in trust for the public benefit and advantage. And, as they were conferred for reasons of public utility, so they may be taken away for reasons of the same kind. It is true indeed, that these jurisdictions are so far considered in the law of Scotland, as rights of property, that they may be sold, mortgaged, or adjudged by creditors, which (by the way) is introductive of many absurdities: and perhaps the legislature of each kingdom, at the time of making the treaty, might carry the notion still further, so as to intend a compensation should be made for abolishing them, whenever that measure should be thought seasonable. But let that be as it will; these jurisdictions can never be called absolute rights of property, in the same sense, as land or money. For, if such a distribution of the powers of judicature might be deemed, in any future time, a wrong model for the administration of justice, it would be absurd, from this article, which only declares them to be "reserved as rights of property," and leaves them as they stood before the Union, to suppose them secured beyond the power of the legislature. Those great and able men, who framed the Union, had it clearly in their view, that an oppportunity would one day occur for taking away the heretable jurisdictions. This appears from the remarkable difference in the penning of the 20th article from the 19th, which concerns the courts of session and justiciary. These are not barely "reserved, notwithstanding the treaty," but it is said, "that after the Union, and notwithstanding thereof, they shall remain in all time coming, as then constitute by the laws of that kingdom." But this is not all. There is a manifest distinction in the 19th article itself, between the security given to those courts, and all the other courts mentioned or referred to in that article. The supreme court of admiralty is not stipulated to remain "in all time coming;" it is only enacted, That the court of admiralty now established in Scotland be continued, until regulation or alteration should be made by the parliament of Great Britain, "so as there be always continued in Scotland a court of admiralty, such as in England, for the determination of all maritime cases, relative to private rights in Scotland." Is it not then plain, that the present court of admiralty might be abolished, provided a new one were erected,

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and the decision of cases, proper for the conusance of such a jurisdiction, were not drawn out of that country *in forum alienum*, into the English court of admiralty? The heretable jurisdictions of admiralty, and vice-admiralty, are also "reserved to the respective proprietors, as rights of property," which is a saving precisely in the same words with that in the 20th article. It is further enacted, "That all other courts now in being within the kingdom of Scotland do remain, but subject to alterations by the parliament of Great Britain;" which is, in substance, a general reservation to the same effect with that of the supreme court of admiralty. But in none of these cases except in the case of the courts of session and justiciary, are any jurisdictions in Scotland exempted from the possibility of an abolition. This is founded on great reason. The people of Scotland knew, that as long as the supreme courts remained entire, there was little danger of having their rights determined in Westminster-Hall (against which there is an express provision in the 19th article of the treaty) by laws to which they were strangers. Great caution therefore is used in the expressions to confirm and secure those courts. They knew, at the same time, that no such danger could arise from the extinction of the Heretable Jurisdictions, because the crown must either erect new ones to supply their place; or, if that were not done, their powers and authorities would of course be vested in the supreme courts within their own country. For which reason, as well as on account of the probable utility of abolishing them, when a fair occasion should offer, they are not provided for in the same manner with those courts. Neither is their continuance stipulated for with the same care, as the privileges of the royal burghs. In the 21st article, it is enacted, "That the rights and privileges of those burghs do remain entire, after the Union, and notwithstanding thereof;" but the private Jurisdictions are only reserved to the owners at that time, without prejudice from the treaty, in the same manner as they were then enjoyed by the laws of Scotland. Can there be a doubt, whether the parliament of Scotland could have altered or extinguished them? It might have altered them many ways; imposed restrictions to controul, or regulate them. It might have abolished them, in earlier times, by acts of resumption, without any compensation or satisfaction. Length of time indeed sets them in another light, and perhaps would give such a measure a colour of severity: and therefore, when they have continued and descended for many generations in noble families; have been conveyed, with the licence and approbation of the crown, from one family to another; and are grown and established into rights of property, it seems fitting that a resumption should not be made, without a reasonable and just satisfaction. I say then, can there be a doubt, if the parliament of Scotland had found danger or inconvenience to arise from these Jurisdictions, whether they were not enabled, by the inherent legislative authority of parliament, to purchase these rights from the owners for the public good? This authority is now devolved upon the parliament of Great Britain, and is exercised every day in cases of lesser moment, such as bridges and highways, without complaint or murmur: and shall it not be exercised in a matter, which concerns the general safety of this constitution, and the freedom and happiness of the people?

I have said thus much to satisfy the minds of others. The opinion of the Lords of Session is with me in this point, that the Heretable Jurisdictions may be taken away upon giving a due satisfaction; nor am I desirous to carry it further.

The next thing, mentioned in the Return, is this, "That the principal cause of lodging these high jurisdictions in great families, was the difficulty of bringing offenders to justice, and executing the laws whilst the country was uncivilized, and the necessity of committing that charge to such, as were most powerful."

My lords; it must readily be admitted, that this was the cause or colour for erecting these jurisdictions: but the experience of past times has proved it an ill-judged and dangerous expedient. The Lords of Session, in some degree, allow this by expressing their opinion, that the power of life or demembration ought to be taken away from these courts; and state that power to be one of the greatest inconveniencies. But, from all the information I have ever been able to obtain, the undue influence and effects of these private jurisdictions are seen more clearly in the exercise of their ordinary civil, and lesser criminal, jurisdiction. Capital inflictions are very rare; hardly an instance known of late years in any one of the regalities; and therefore to abrogate this

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power only, would be to take away that evil, which sounds the greatest, but is in fact the least.

My lords, I agree with the Court of Session in several things they have suggested to your lordships' consideration. It will certainly be very difficult and almost impossible to find proper places for holding the Circuit-Courts in the heart of the Highlands, under their present circumstances. But it must be agreed likewise, that nothing can be more desirable, or would be attended with more happy consequences: it would tend to perfect the plan of judicature throughout the whole kingdom, and give it a more exact and useful uniformity. This end however cannot be attained at once. In the mean time, what is proposed of performing the circuits twice a year in the towns that border on the Highlands, will be of great benefit.

The next regulation offered to you, is "to take away the necessity of reducing the parol evidence in capital, and criminal cases, in the Court of Justiciary and the Circuit-Courts, into writing;" a very dilatory and burthensome method of proceeding required in the law of Scotland. This has been long complained of, as tending only to discourage honest men, by the weight of expence, from prosecuting offenders: and to feed contention and disorder by delaying justice.

As to the jurisdiction of sheriffs, and stewarts of counties, and magistrates of burghs, I think it ought to be preserved. Under this head, your lordships are informed of a circumstance, which deserves your notice. It is, that these judges have no other legal reward for doing their duty than sentence-money in civil causes, and fines in criminal. The one paid by the plaintiff, if he prevails in the suit, the other by the convict. The temptation to partiality and corruption is very apparent in both these instances; and therefore it were to be wished, that the fines should go to the king, sentence-money be entirely abolished, and the judges provided for by the public in some better and more honourable way.

Another clause of the Return respects the jurisdiction of the barons courts. The Court of Session admit, that "it may be right to restrain the higher jurisdiction, but would preserve the jurisdiction for uplifting their own rents; in lesser trespasses and offences; and in actions of debt between tenant and tenant." For what concerns the uplifting of their own rents it may be proper to leave that untouched, as it is analogous to the power of distraining in England, which is the remedy allowed to every landlord against his tenants. Some sufficient authority should subsist likewise to keep the peace in fairs and markets. But as to the holding plea between tenant and tenant, it appears to me (as at present advised) not fit to be continued, and may have been one source of this great evil.

Upon the whole then your lordships see, that the remedies proposed by the Lords of Session are inadequate to the mischief. To take away the higher jurisdiction, and leave the lower, will cure the least part of it. The higher jurisdiction is, in many cases, too dangerous to be exercised; exposed to the correction of superior courts; the animadversions of government; the reproaches of mankind. But the lower jurisdiction furnishes more frequent opportunities of oppression; is executed with more ease, and, in all instances, with less danger of being called in question for abusing it. Let me resort then to the general proposition, with which the Return sets out, "That it is impossible to make effectual provision for the regular administration of justice, confining the same to the king's courts and judges in Scotland without taking away the Heretable Jurisdictions." That is a proposition undoubtedly true, and is the great foundation, on which you must proceed.

Is the thing necessary to be done? Do your lordships agree, that it is fitting, the administration of justice should be confined to the king's courts and judges? Pursue those means, which the Court of Session tell you are the only means to carry your intention into effect. Take away the Heretable Jurisdictions.

II. This is my general idea of the measure necessary to suppress the evil. Abrogate and extinguish them all, of every kind, whether they be justiciaries, regalities, sheriffships, stewartries, or bailleries; and to whomsoever they belong. The highest jurisdiction, that is vested in any subject, is in the hands of a noble duke, who is therefore named in the Bill: and his grace is inclined to yield it up, on this occasion, for the public service, and will be extremely reasonable in facilitating the measure. When this is done, restore the jurisdiction to the crown and the king's courts; the seat, where all the powers of jurisdiction, according to the



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constitution, are lodged, and from whence these judicatures have been derived or wrested.

I will now open to your lordships the reasons, which prevail with me to be of this opinion. In explaining which, I will begin with telling you what are not my reasons, and then tell you very truly what are.

1. In the first place, the Rebellion is not my reason. That is indeed the occasion, which has given rise to this consideration, but is not the reason for this measure. It may certainly be thought the more necessary, whilst we have a Pretender to the crown; because false dependencies, and factious interests, have a direct tendency to create or promote disturbances, and will naturally, in some places, conspire to his support. Yet had there been no rebellion in the year 1715, or in the year 1745, and this matter had engaged my attention, as it has lately done, I should have thought it right, and even necessary, upon other grounds.

2. In the next place, I disclaim any reason drawn from the notion of a general disaffection in Scotland, which one has heard so much and so injuriously talked of. I consider it as an imputation upon that country highly imprudent, impolitic, and unjust. Great part of the people are extremely well affected to this government and this constitution; zealous for the king and his family; reverence the Protestant religion, and the liberties of their country; have hazarded their lives, and every thing valuable to them, for that cause. This makes me reflect with detestation on those infamous incendiary pamphlets and papers, written and sent abroad into the world, with a design to raise and inflame dissensions, and make a breach between the two nations. They are most wicked and dangerous libels; highly criminal and punishable by law; and, should this spirit be carried on longer, it will well deserve the consideration and censure of your lordships.

3. In the last place, it is none of my reasons, that the present possessors of these Heretable Jurisdictions are not fit to be entrusted with such powers. For my own part, I think quite otherwise. Even now, in this House, amongst your lordships, I see some before my eyes, of high birth, and distinguished loyalty, worthy to be trusted with any powers, which it is proper for the crown to entrust to subjects. But men are mortal: governments, in the view and contemplation of lawgivers and founders of states, are framed to be perpetual. *Esto perpetua*, was the most patriot wish father Paul could form for his favourite state of Venice. May the constitution of Great Britain be immortal! May the Protestant succession remain unshaken for ever! May the present royal family sustain the line of that succession, and fill the throne, as long as this constitution shall endure! But in order to preserve and improve it, take out of it any seeds or mixture of disorder and confusion, which may accelerate its dissolution.

My lords, my true reasons are drawn from known and allowed maxims of policy. I think the parcelling out the power of jurisdiction, originally lodged in the crown, in this manner, was a wrong and dangerous model of government; I say, of government in general, because I look upon the administration of justice, as the principal and essential part of all government. The people know and judge of it by little else. The effects of this are felt every day by the meanest, in the business and affairs of common life. Statesmen indeed have their attention called off to more extensive political views: they look abroad into foreign countries, and consider your remote interests and connections with other nations. But of what utility are these views, great as they are, unless they be referred back to your domestic peace and good order? The chief office of government is to secure to us the regular course of law and justice. When the king therefore grants away jurisdiction, he parts with so much of his government: it is giving away so many jewels of his crown. It is certainly putting so much of the protection of his people into other hands; and this tends directly to dissolve the bond of union and affection between king and people; whilst the subjects do not see the king, either in the benefits they receive, or the punishments they feel. Hence arises a dangerous and unconstitutional dependence. And how can it be otherwise? The people will follow those, who have the power to protect or hurt them; and this dependence will operate most strongly in the uncivilized part of any country, remote from the seat of government. The ill effects of it in Scotland were seen long since; are allowed in the writings of their greatest lawyers; and attempts were made to put a stop to them by some acts of parliament, which I have, on a former occa-

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sion, cited to your lordships.* Other remedies were also thought of and applied; but, as it often happens, one error in government begot another. They found one scale to preponderate too much, and instead of diminishing the weight in it, (which had been the wiser method) they chose to balance it by throwing more weight into the opposite scale. It appears from history, that the Scotch privy council interposed to preserve the peace, and to correct the disorders of these jurisdictions, grown too big for the ordinary course of law. This gave rise to the exorbitant powers of that council, which grew more terrible in Scotland than the Star-Chamber was in England, and proved the most arbitrary court, that ever was established in a free country. Sir G. Mackenzie, in his 2d vol. p. 199 and 200, treating of the jurisdiction of the privy council, says, "That it was exercised by way of precognition in cases, where considerable persons were interested in the crimes committed, as noblemen or clans: and where there was hazard of increasing the feuds by remitting the criminals to the ordinary course of justice. After sentence also, they might, upon application made, mitigate the sentence; or appoint some of their number to revise the process and verdict, who reversed the whole, and ordained it to be torn out of the criminal registers." They had very penal methods too, which he describes, of enforcing the full execution of the law, and, "used of old to ordain noblemen and others, who could not be apprehended by captions for civil debts, to deliver up their persons in any of his majesty's courts, under the pain of treason." Thus was the authority of the privy council employed by the crown to controul the excesses, or correct the remissness or partiality of these inferior judicatures in the hands of the great lords. At last that council became itself a grievance, and there never was a wiser measure, than the abolition of it after the Union. But the error or inadvertency lay in taking it away solely, and not at the same time redressing the inconvenience, restrained by it. The parliament took away the mistaken, the false remedy, without applying the proper cure to the disease, which continued in its height. But what is the true remedy? Remove the evil. Restore the powers of jurisdiction to the crown, as it now stands bounded by law since the Revolution. The wisdom of this constitution shines in nothing more than in the due mixture and temperament of the monarchical, aristocratical, and democratical powers. If any of these exceed their due proportion, confusion will inevitably follow. Can then any measure be more worthy of your attention than this, which has no other view than to secure that proportion of authority to the crown, which the law intends; to fix the allegiance of the people, where alone it ought to rest, upon that sacred object; and to diffuse the benefits of this limited monarchy, the foundation of our common freedom, over the whole United Kingdom?

III. It remains now only to state to your lordships the particular plan of that Bill, which I have prepared to lay before you.

My lords, the Bill begins with abrogating, and totally extinguishing, all Heretable Jurisdictions of justiciary, regalities, and bailleries in Scotland; at the same time restoring and vesting their authorities in the king's courts, to which they would have belonged, if these other courts had never been erected.

Then it resumes and annexes to the crown all sheriffships and stewartries granted heretably or for life, with a restrictive clause to prevent the king from making such grants for the future, and declaring all letters patent for that purpose void.

The next clauses relate to the making of a just and reasonable compensation to the proprietors, and prescribe the methods, in which the Court of Session shall proceed to ascertain the values of these Jurisdictions. Enquiries of this kind in England are made by juries. In Scotland, where juries are not used in civil matters, it will be more proper that the Lords of Session should, in a summary way, determine and assess upon examination of the title; and certify the whole afterwards to the king in council. To these clauses a proviso is added, that, in cases of entails or strict settlements, the sums of money allowed as the full price and satisfaction, shall be laid out in the purchase of lands in Scotland, to be limited exactly to the same uses, as the Jurisdictions themselves stood limited.

The benefit of these clauses is extended afterwards to the barons, who are immediately concerned in the following provisions of the Bill. And as to them, it is proposed to take away all their criminal

* Acts 42, 43, and 44 of king James 2nd of Scotland.

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and civil jurisdiction whatsoever, except so much as they can exercise by law to recover their own rents, to keep the peace in fairs and markets, or amongst colliers and salters. This power seems of absolute necessity to be reserved to them, and is not exposed to those inconveniences, which attend the other. But, wherever any jurisdiction is reserved to the barons, it will be right to restrain them by an express provision, from imprisoning any person in a private pit or dungeon, and to oblige them to send the party to the prison of the county, or of the nearest royal burgh, or burgh of barony, under pain of being liable to all the penalties inflicted by law for wrongous imprisonment. That provision will be an awe upon them, to prevent oppression. To this is added a saving for the privileges of the royal burghs, whatever they may be, respecting this matter, agreeably to the articles of the Union. As to such burghs of barony, as are corporations or communities, it will be be proper likewise that their jurisdiction should remain unprejudiced by the general abrogating clauses of the act; except only as to the privilege of repledging from any of the king's courts.

My lords; the charters of their erection, as well as those of the royal burghs, are sometimes granted with a power of repledging from the sheriff or stewart, and even from the justices, in all cases, except the four pleas of the crown. That is, they may demand a criminal, who belongs to their jurisdiction, from the bar of the king's court to be delivered over to be judged by them; and they are obliged to find caution, which is now become a matter of mere form, that they will do justice upon the malefactor, whom they thus repledge, within a year and a day. But every one sees, that this jurisdiction is liable to great corruption and partiality in the exercise; and amounts in fact to a power of punishing or pardoning (even where the king's judges have already taken cognizance of the cause) in prejudice to the course of the common law, and rights of the crown.

My lords; the Bill goes on to make some new regulations as to the sheriff's courts. In the first place, it gives a power to the king, under his sign manual, to direct what number of sheriffs depute shall be appointed for any county or stewartry; and this in regard to the largeness of some districts in Scotland, where it will be impossible to transact the business by any one or two. The qualification required is, that one of them shall be an advocate of so many years standing to be appointed by the king; the rest, by the principal sheriff or stewart, to be approved or rejected by the king, upon a certificate, made of their names, residence, and occupation, to the secretary of state.

As to their jurisdiction, it will be proper to increase it in civil causes. At present any action brought in their courts, where a personal demand is in question of greater value than the sum of 11*l.* 2*s.* 4*d.* may be advocated to the superior courts; which is attended in many instances with much unnecessary delay and expence to the subject; and therefore the Bill enacts, "That for the future all process of advocation shall be discharged, in causes where the value does not exceed 30*l.*"

The next thing is, to provide that the judges shall go the circuits twice a year, instead of going them but once, as they now do. Such a provision will effectually replace that jurisdiction, which is taken away by the Bill, and distribute the king's justice in a manner the most beneficial to his people. By this clause, the judges are likewise directed to continue a fixed number of days in every town, where the Circuit Courts shall be held, for the dispatch of business. It was the wisdom of king Henry the 8th, in uniting Wales to England, when he was establishing rules for the course of justice in that country, to oblige the judges of the great sessions to continue six days in every place, where the session was to be held. This was meant to give time and opportunity to the people to attend with their causes: for he foresaw, that perhaps the judges, if left to their discretion, would be apt to shorten their stay, so as merely to travel the journey, and sometimes leave the administration of justice neglected.

My lords; as the law now stands, the judges exercise no civil jurisdiction whatever in their circuits; and every decree or judgment of the sheriff's or stewart's court is liable to a bill of suspension or appeal, in nature of a writ of error, to the Court of Session at Edinburgh. It should seem therefore a very useful alteration, in order to carry all kinds of justice home to the people, and to prevent vexation to parties, who have obtained a rightful judgment, to give the judges in their circuits a power to receive and determine, in a summary way, such bills of suspension from the sheriff's court; upon condi



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sion that it be preferred to the Circuit Court within a limited number of days after the sentence or judgment pronounced; and at the peril of costs to the suspender, in case his bill be dismissed. This, I say, may be an useful alteration in general: but, in case any doubt should arise in point of law or evidence to the circuit judges, so that they cannot proceed to determine it consistently with justice, and the nature of the case, then it will be fit they should have a discretionary power to certify the suspension to the Court of Session, who, upon that certificate, may go on to determine it, as if it had been originally commenced before them.

My lords; this being in every respect, a new method of proceeding to be instituted by parliament, it is impossible to foresee at once all the difficulties, which may arise, or regulations which may be necessary, in carrying it into execution. Therefore it is proposed, that the Lords of Session should be required by this law, within a time limited, to consider of the rules and forms of process, proper to be established in the Circuit Courts upon such bills of suspension; and make, what they call, an act or acts of Sederunt concerning this matter, to be observed in those courts, as they do in cases, which require general regulations of practice in their own court. This they may be directed to transmit to both Houses of Parliament in the next session.

The remaining provisions of the Bill are to this effect. One is to enable the king in council to make a new distribution of the circuits in Scotland, if his majesty shall think fit, in order to extend the jurisdiction of the Circuit Courts more generally over that part of the kingdom. Another is, to take away the necessity of reducing the evidence, given in capital and criminal cases, into writing, by reason of the great inconveniences attending it; and to empower the judges (as in England) to determine upon hearing the witnesses *viva voce*.

The last of all is, to vest the benefit of fines and forfeitures (now belonging to the sheriff or stewart) in the crown; and to abolish sentence-money.

This is the substance of the Bill, which I have prepared, and have in my hand; and, before your lordships rise, I shall take the liberty to move that it may be read a first time*.

* "Sed nihil est, quòd legum usum magis impediat, quàm Juris regalis hæreditaria apud quosdam nobiles potestas; vera totius Regni calamitas. Nihil mihi in præsentia consilii hîc succurrit, nisi ut severissimam à singulis exigas officii rationem, et quantùm leges permiserint, cessantium castiges ignaviam: Et si quis potestatem hanc suo vitio amiserit, nemini post illum hæreditario jure eam concesseris. Verùm ad laudabilem Angliæ consuetudinem omnia hæc paulatim aptare studebis, quod tibi facta erit facilius, quum ibi quoque (uti spero) rerum potitus fueris." Opera Jacobi Regis, p. 150, Basilicon Doron ad Henricum Filium.

The Lord Chancellor then presented to the House a Bill, intituled, "An Act for taking away and abolishing the Heretable Jurisdictions in that part of Great Britain called Scotland; and for restoring such jurisdictions to the crown; and for making more effectual provision for the administration of justice throughout that part of the United Kingdom by the king's courts and judges there; and for rendering the Union more complete." And the same was read the first time*.

* "The parliament then proceeded to make such acts, as might extinguish in Scotland the very means and temptations of raising a future rebellion. Amongst other Bills, they passed one for taking away the tenure of wardholding in Scotland, and for giving to heirs and successors there, a summary process against superiors; and for discharging the attendance of vassals at head courts; and for ascertaining the services of tenants; and for allowing heirs of tailzie to sell all lands to the crown, for erecting buildings, and making settlements in the Highlands.

"Another capital grievance and source of rebellion in Scotland, were the Heretable Jurisdictions which prevailed in many parts of Scotland, and descended from father to son, by which those jurisdictions were entirely out of the hands of the crown. This absurdity in that constitution, had been overlooked, or at least was not provided against, by the articles of the Union, and was in a great measure owing to the nature of their feudal tenures, which gave the great landholders there a kind of jurisdiction independent of their kings. A Bill, therefore, was ordered into the House of Peers. Though nothing in itself could be more equitable than the purport of this Bill was, or more earnestly wished for by the people of Scotland, yet, as many of the greatest families there were possessed, more or less, of some of those jurisdictions, which consisted in regalities, justiciaries, sheriffalties, stewarties, bailliaries, office of forester and water baily, coroner or clerkships, an opposition was made to the Bill's taking rise in the House of Peers, because many of those jurisdictions were matters of right, and others had been purchased and paid for by the pre-

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*Debate in the Commons on the Bill for Abolishing the Heretable Jurisdictions in Scotland**.] February 26. On the motion of the Attorney General it was ordered, "That leave be given to bring in a Bill for taking away and abolishing the Heretable Jurisdictions in that part of Great Britain called Scotland, and for making satisfaction to the proprietors thereof, and for restoring such Jurisdictions to the crown; and for making more effectual provision for the administration of justice throughout that part of the United Kingdom, by the king's courts and judges there; and for rendering the Union of the two kingdoms more complete."

April 7. The above Bill was presented by the Attorney-General, and read. Upon which Mr. Pelham rose up, and acquainted the House, that his majesty having been informed of the purport of the said Bill, recommended it to the consideration of the House. A motion was then made for reading the Bill a second time. Upon which there was a long debate.

The Arguments in favour of the Bill were to the following effect:

It was observed, that the late Rebellion was not the only cause for bringing in the Bill. The necessity, and the advantages that would arise from abolishing the Heretable Jurisdictions of Scotland, had been held in contemplation by several gentlemen for many years past. The Rebellion, said one gentleman, has therefore given me no new way of thinking upon this subject: it has only furnished me with an opportunity for declaring my opinion, by fixing the attention of mankind upon this subject.

I must likewise declare, Sir, that my reason for being of this opinion, is not because I think the people of Scotland disaffected: on the contrary, it is because I know them to be generally otherwise, and that they could never have been led into a rebellion against this government, had they been free from that influence or power, which their great lords and chiefs have over them. However much they have been misrepresented, I have good reason to believe, that a great majority of the people of that country are naturally neither disaffected to our present happy establishment, nor dissatisfied with the present administration; and consequently, that no considerable number of them would ever have thought of an insurrection against this government, if they had not been stirred up, or rather compelled, by some of their Popish or ambitious chiefs.

And, Sir, I shall declare, that my reason for being of this opinion, is not because any of the lords of Hereditary Jurisdictions in Scotland have of late years made an ill use of the power they are now by law invested with: if we except the few that have lost their power by the treason they have lately committed, I am persuaded, none of those who are now possessed of any such Jurisdictions, will ever make a bad use of their power; but the present possessors must die, and no one can foresee, what sort of men their next successors may be. They may make use of their power either for oppressing great numbers of his majesty's subjects, or for disturbing the internal tranquillity of this island: nay, they may be induced, by some selfish interest or resentment, to join with our most inveterate foreign enemies, and may thereby be the cause of overturning the liberties of Europe, as well as those of their native country. The late Rebellion must convince us, that this is a misfortune which may be apprehended, and common prudence must convince us that it ought to be guarded against, by abolishing those powers which may be the cause of such a fatal event.

It was insisted that the Bill would be an inchoation towards making the laws the same in both parts of the United Kingdom, which ought certainly to be aimed at as much as possible; but it is an event that must be brought about by degrees, because to attempt doing such a thing all at once, might be the cause of great discontents, and perhaps confusion. That by abolishing those Heretable Jurisdictions,

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sent possessors. It was therefore thought, that some equivalent should be given to the latter, in case the Bill should pass; and that the Bill thereby becoming a Money Bill, it must take rise in the House of Commons, where it was accordingly ordered in, and it afterwards passed into a law. The reader, perhaps, may be surprized, when he is informed, that the sums claimed from the government, as an equivalent for those Hereditary Jurisdictions, amounted to upwards of 600,000*l*. Several other preventive laws with regard to Scotland and the attainted persons concerned in the late Rebellion, likewise passed this session; but the whole was closed by an act for the king's most gracious, general, and free pardon." Tindal.

* From the London Magazine.

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we shall restore to the crown what of right belongs to it, what it ought never to part with, and what never can be taken from it, without risking a total overthrow of our constitution, as must appear from the History of Scotland before the union of the crowns; for before that time the country was almost never free from rebellions or insurrections, and the people were almost continually employed in cutting the throats of one another, for satisfying the private piques and resentments of their contending chiefs. That it would complete what was begun by those patriots who abolished the privy council of Scotland: by abolishing that arbitrary court, they made a step towards establishing the liberties of the people of that country; but by leaving them still subject to the arbitrary power of their hereditary lords, they left their work incomplete, which we ought to take this opportunity to finish; for, by abolishing all these Heretable Jurisdictions, and vesting them again in the crown, we shall make the people of Scotland sharers in that happiness and freedom, which the people of England enjoy under our present royal family. These reasons every gentleman will see subsisted before the late Rebellion broke out; but from that Rebellion we have derived this advantage, that it will now be more easy to get a law passed, for abolishing the Heretable Jurisdictions in Scotland, than it would ever have been before.

The following is the substance of the Arguments against the Bill, thrown into the form of one Speech.

Sir; the hon. and learned gentleman who has been at the pains to prepare and bring in the Bill now before you, has taken up so much of your time, in explaining and endeavouring to shew the necessity of the Bill, that I am afraid you will hardly have patience at this time to hear any thing said against it; but as I have often had experience of your complaisance, I shall venture to give you some of my reasons for being against this Bill, or any Bill of a like nature; and in doing so, I shall be as short as possible. In the first place, I must observe, that its requiring such a multitude of words and such a power of eloquence, to explain and enforce it, is no very good argument either for its utility or necessity. When a public inconvenience is really felt, a few words are sufficient for convincing even a numerous assembly of the necessity of some new regulation; and from our statute books every one may observe, that our shortest laws have generally been found the most useful.

This, Sir, is of itself a strong presumption against the Bill; but I have no occasion for insisting much on presumptions, when there are such weighty arguments against it; for before I have done, I hope to shew you, that we cannot pass such a Bill, without making a plain encroachment upon the Articles of Union; that if we pass this Bill, or any Bill of a like import, we shall render the property of every man in the kingdom precarious; that by such a regulation as is thereby proposed, we shall bring our happy constitution into the utmost danger; that his majesty, by giving it the royal assent, may alienate the affections of many of his best subjects in Scotland; and that it will be a precedent of the most pernicious consequence to those families in England, who are possessed of any sort of privilege or jurisdiction.

With regard to the Articles of Union, Sir, I shall insist upon none but the 19th and 20th, both which we must, in my opinion, break through, if we agree to any such regulation as is proposed by this Bill. By the former of these two Articles, after providing for the continuance of the Court of Session, the Justiciary Court, and the Admiralty Court, and for the preservation of hereditary rights of Admiralty as rights of property, it is expressly stipulated in these words, "And that all other courts now in being within the kingdom of Scotland, do remain; but subject to alterations by the parliament of Great Britain." What alterations, Sir? Certainly with respect to the form and manner of their proceedings. Surely, by alterations we cannot suppose they meant annihilations, which will be the effect of this Bill; for all the regality courts and baron courts which were in being within the kingdom of Scotland, at the time of the Union, are by this Bill to be absolutely and totally annihilated.

Can there be any thing, Sir, more contrary than this to the express words of the Article? Even the learned gentleman himself who has presented you with this Bill, admits that this would be the case, if it were not for the following Article; but, says he, as Heretable Jurisdictions are particularly provided for in the following Article, it cannot be supposed, that they were meant to be comprehended in the general words of this. Sir, I must beg leave to think, that this looks something like putting the Frenchman upon us, by

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saying that the spirit of an article of so solemn a treaty is directly contrary to its express words. But in my way of thinking, the following Article is so far from being an exception, that it is a confirmation and enforcement of the former. The lords of Heretable Jurisdictions were all or most of them, I suppose, members of the Scottish parliament, and extremely jealous of those Jurisdictions, which added such a dignity to their persons, and such a lustre to their families. They were afraid that their Heretable Jurisdictions, were not sufficiently secured to them, by the general words of this Article. As Jurisdictions of every kind may very properly be said to relate to civil government, they were afraid, lest it might be said by the British parliament, in consequence of the 18th Article, that though the regality and baron courts were by the 19th Article to remain, yet they might by act of parliament be taken from the then proprietors and all vested in the crown, with power to the king to appoint bailiffs or stewards under him, to hold those courts in the same manner as they were formerly held by the bailiffs or stewards of the hereditary lords. They knew they had influence enough to prevent the passing of such an act in the Scottish parliament, but they could not expect to have the same influence in the British; therefore they thought necessary to provide for the preservation of these their Heretable Jurisdictions, not only by the general words contained in the 19th article, but by a particular article contrived for that special purpose, which makes the 20th article of the treaty, and which I shall now consider.

How weak, Sir, is human judgment, how ineffectual our wisest precautions! That very Article, which was contrived by the lords of these jurisdictions in Scotland for securing them to their posterity, is, we now find, in less than half a century, made use of as a pretence for depriving them of every such honourable possession for ever. The words of the Article are, "that all heretable offices, superiorities, heretable jurisdictions, offices for life, and jurisdictions for life, be reserved to the owners thereof as rights of property, in the same manner as they are now enjoyed by the laws of Scotland, notwithstanding this treaty." By this Article, and by their perpetual entails, which the lawyers of Scotland have not yet by any quirk pretended to break through, they thought they had, notwithstanding the Union, secured their jurisdictions to their posterity for ever, or at least till an end should be put to it by the act of God, that is to say by the extinction of their whole race. But it is now said, that as any subject may by act of parliament be compelled to part with his property for a reasonable price, when it becomes necessary for the public good, and as these jurisdictions are by this article reserved to the proprietors, only as rights of property, therefore they may be compelled by act of parliament to part with them for a reasonable price, if it be necessary for the public good, without any breach of this Article of the Union.

Now, Sir, I shall admit the justness of this argument; I shall admit, that if it were absolutely necessary for the public good, the lords of these jurisdictions might be compelled to part with them for a reasonable price, without any encroachment upon this Article of the Union; but then I must insist, that this necessity ought to be apparent and indisputable. Is it so in this case? It is said, indeed, but it is only said, that inconveniencies have arisen, and may arise, from the multiplicity and extent of Heretable Jurisdictions in Scotland; but have we had any proof, have we had any complaint from Scotland, of the inconveniences that have arisen? Have we had the least suggestion from any man there, that inconveniences may arise? No, Sir; only some of our ministers here, who know just as much of Scotland as they know of Japan, have taken it into their heads, that inconveniences have arisen, and may arise, from these jurisdictions; and of this their fancy we are to make the foundation, and the only foundation of an act of parliament, for compelling most of the noble and great families in Scotland to sell the most valuable property that belongs to them: a property that is really invaluable by any person but the proprietor; for the value of honours, titles, dignities, and the like, always depends upon the *pretium affectionis* set upon them by the possessor; and therefore, when such things are to be sold, which God forbid they ever should in this country, one man may perhaps be found, who will readily give ten times more for the purchase than any other man would.

As we have no proof, no complaint, nor any suggestion before us, Sir, of any one inconvenience that has arisen, or may arise from the Heretable Jurisdictions in Scotland, I hope that, for the honour of those noblemen and gentlemen who are now possessed of them, you will amend this

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part of the preamble, and begin your Bill thus: "Whereas it is apparent, from the nature of things, that inconveniences have arisen, or may arise, from the multiplicity and extent of the Heretable Jurisdictions in that part of Great-Britain called Scotland, therefore, for remedying and preventing those inconveniences."——This amendment, I say, Sir, ought to be made for the honour of, and even in justice to, those who are the present possessors of these Heretable Jurisdictions; because no inconveniences can arise but from the bad use made of such jurisdictions, whereas it is admitted, that none of the present possessors have ever made a bad use of them, and that it is not so much as suspected they ever will; but this admission does not appear upon our records. What, then, will posterity think, when they read the preamble of this Bill, which must appear upon our records? Will they not naturally conclude, that in the year 1746, the then possessors of the Heretable Jurisdictions in Scotland made such a wicked use of their power, that the parliament of Great-Britain thought it necessary to strip them and their families of every such power for ever?

I hope, Sir, this will be allowed to be a good reason for the Amendment I have proposed; but even when the preamble is so amended, I cannot agree to it; because there is, in my opinion, no such appearance in the nature of things. Judges may be partial and unjust, magistrates may be oppressive and rapacious: but this may as probably happen when they are appointed by the crown, as when they are appointed by the lords of Heretable Jurisdictions: in my opinion, more probably; because the judges and magistrates appointed by the crown are always the favourites, too often the tools, of ministers; and we know how apt ministers are to support their favourites in every rapacious job, and that they will always be more able to protect their favourites from the paws of the law, than we can suppose any lord of an Heretable Jurisdiction to be, unless he be likewise a minister of state. Besides as the lord of an Heretable Jurisdiction has generally his own estate lying within his jurisdiction, it is his interest to take care, that the people within the same shall live easy and quiet, and free from oppression; because the better the people within any particular lord's jurisdiction are protected in the free enjoyment of their liberties and properties, the more people will resort to live within that lord's jurisdiction, and consequently the more he may increase the rents and profits of his own estate. Has a minister any such interest in view? No, Sir: he regards nothing but the favourite he has put into the place or office; and as that favourite depends upon his powerful protection, the more, probably, he will venture to be unjust, oppressive, and rapacious.

I must, therefore, conclude, Sir, that the only foundation we have for this Bill is the fancy of some of our ministers of state; and if upon this foundation we compel any man in Scotland to sell his property, we not only commit an evident breach of the Articles of Union, but we shall render the property of every man, both in England and Scotland, precarious; for some future minister may fancy, as the Turkish ministers always have done, that inconveniences have arisen, and may arise, from any subjects having a property in a land estate, and that therefore it is necessary for the public good, to compel every man in the kingdom to part with his property in lands for a reasonable price. I shall grant, it would not be easy to get a British parliament to pass such a Bill; but a British parliament has been, and therefore may be prevailed on to pass an act for giving to the king's proclamation the authority of an act of parliament: and then the business would be done: the king would not stand in need either of a dream or a Joseph, for enabling him to pay the purchase-money; because this very Bill would furnish him with an easier and more expeditious method. He would need only to enact by his proclamation, that the property of all the lands in Great Britain should from and after a such day be vested in the crown, and that the price to be paid for them should be settled and ascertained by the judges; for he might prevail with the judges to put off their determination, till the intermediate profits of the lands enabled him to pay the price; and most landholders would be glad to accept of any price in ready money, rather than wait the issue of such a tedious and uncertain determination.

I shall not say, Sir, that with respect to the property of our land estates, we have any immediate occasion to dread the consequences of this Bill; but I will say, that there are many rights and privileges possessed by some of the landed gentlemen in England, with respect to which we have an immediate occasion to apprehend the



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consequences of such a Bill as this, and no one can tell how far our future princes and their fanciful ministers may push the authority of such a precedent: for from experience we know, that the imagination of ministers is mighty fertile, with respect to the dangers or inconveniences that may ensue from any rights or powers lodged in the people: but equally barren, with respect to the dangers or inconveniences that may ensue from any rights or powers lodged in the crown; which brings me to the third head I proposed to illustrate, that is to say, the danger to which our constitution may be exposed, by our agreeing to any such Bill as this now before us.

The very essence of our constitution, Sir, consists in such an equal distribution of power, among the three branches of our legislature, as prevents any one of them from having or acquiring such a command or corrupt influence over the other two, as to be able to oppress and tyrannize over the people. While these three branches of the legislature continue so much independent of one another, as to have no band of union but the public good, it is impossible to suppose, that they will ever unite, or at least, that they will ever long continue to unite, in opposing or tyrannizing over the people. But if you should by degrees, under the pretence of remedying or obviating imaginary inconveniences, throw so much power into any one of the branches of the legislature, as may enable it to render itself master of the other two, our happy constitution will be undone: It will necessarily and of course deviate into an absolute monarchy, as it was for some time after the Conquest, and again in the reign of Henry 8, after passing the law I have mentioned, for rendering the king's proclamations of equal authority with an act of parliament: or it will deviate into an absolute aristocracy, as it was for some time in the reign of Henry 3; or lastly, it will deviate into a democracy, as it was for some years after the defeat of Charles 1: and that of course, as such governments generally soon do, will deviate into a sole and arbitrary tyranny, as was our case under Oliver Cromwell.

I believe, Sir, no man doubts of our constitution being at present in more danger from the increased power of the crown than from the increased power of either House of Parliament. The crown has already, I fear, got the absolute direction of the choice of the sixteen peers to represent the peerage of Scotland in parliament, and by this Bill you will, in my opinion, give the crown the absolute direction of the choice of the forty five commoners for that part of the United Kingdom; for I must observe, that the sheriffs in Scotland have a much greater power over the people within their jurisdiction, than the sheriffs have in England; because most of our farmers are able to bring their suits before our superior courts; but very few farmers in Scotland are able to bring their suits before the superior courts there. The sheriff of the county is the only judge they can apply to for redressing their wrongs; and if he does them injustice, they must submit, because they are unable to seek redress from the higher courts. What gentleman in Scotland will, at an election, give his vote against a candidate strongly recommended by the court, if he knows the consequence to be, that none of his tenants can afterwards expect justice from the judge of the county, and the only judge they can apply to?

Will not this be the case, Sir, if we pass the Bill now before us? The under sheriffs are all to be appointed or approved of by the crown, during pleasure, and to have, I suppose, a salary from the crown. Can we then from the nature of mankind presume that such sheriffs will not favour the tenants of those who vote for the court candidate? Can we from the nature of ministers presume, that they will not give hints to their sheriffs to do so, and dismiss such as are not sufficiently pliant? And will not this give the crown a great additional influence at all elections for members of parliament in Scotland? We should remember, Sir, I hope we shall always gratefully remember, the assistance we met with from Scotland, in removing a minister that had, by his public measures, rendered himself an object of contempt, as well as hatred, to a great majority of the United Kingdom. If a great majority of the members for Scotland had not been chosen against him, if a great majority of them had not concurred in bringing about his downfall, he might still have been alive, and would probably have still been the sole and prime minister of this kingdom. I hope this Bill is not intended by way of revenge against the gentlemen of Scotland, for the part they acted at that juncture; for I cannot think, that even those who may have some little resentment lurking in their breasts, would push it so far, as to sacrifice the constitution and liberties of

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their country to their revenge; which will apparently be the consequence, if we make the crown masters of all the elections in Scotland.

I know it is said, Sir, in the preamble of this Bill, that we are only to restore to the crown the powers of jurisdiction originally and properly belonging thereto, according to the constitution. This is founded upon a vulgar error, which of late but too generally prevails, that the executive power of our government is wholly and solely lodged in the crown; from whence it is inferred, that the jurisdictive power, being a part of the executive power, originally and properly belonged to the crown. This I must absolutely deny; for the executive power of our government was never wholly and solely lodged in the crown: for supporting the dignity of the throne, most of the powers of our government are, it is true, executed in the name of the king, and by the great officers of state appointed by him, or their under officers; but anciently, and according to the original form of our government, those great officers were appointed by the king, by and with the consent of parliament, and they never could, nor can yet execute the king's commands, when contrary to law; for if they do, they may be prosecuted and punished for it, either in the courts in Westminster-hall, or in parliament; in neither of which can the king's express order, though under his hand in writing, be pleaded in excuse for an illegal act.

Then as to the power of jurisdiction, Sir, it is even yet so far from being wholly and solely lodged in the crown, that the dernier resort has always, and still does lie in this House. And by the ancient and original form of our constitution, that is to say, by the old Saxon form, to which we must always have recourse, when we talk of our original constitution; for after the Conquest, till we got it in some part restored, we had no constitution at all: I say, by the original form of our constitution, the king had very little power of jurisdiction, except, as other lords had, within his own manors; and even there the king, as well as every other lord of a manor, was rather president than judge of the court; for in all manors the freeholders were the proper judges. And when the country was divided into shires or counties, hundreds, and tithings, the freeholders in each were the judges, or some person chosen by them for that purpose. No suit was ever brought before the chief or king's judges, unless the parties lived in different counties. Then as to the chief judges, they were, it is true, nominated by the king, but always by the advice, and with the consent of the witenagemot, or parliament, to which an appeal lay from the decrees of those judges, which is the foundation of the appeal that now lies to this House in all causes, and from all the chief courts in the kingdom, unless when it is declared otherwise by statute.

What was the ancient constitution in Scotland, Sir, seems not so easy to determine; for, in reality, they seem of old to have had no constitution at all but the clannish, which still in a great measure remains in the Highlands. The chief of each clan seems to have had a most despotic power over his clan; and those chiefs, or the majority of them, chose themselves a king, who had just as much power as he could acquire by his sword, and always held it by the same tenure; though, to avoid disputes upon the death or deposing of their king, they generally chose one of the royal line, and that one generally who had the best interest among the chiefs, without any regard to hereditary right. At last they borrowed something like a constitution from us, as is evident from the names of their magistrates, and the like, which are all derived from words in the Saxon language, such as thane, steward, shire, sheriff; and some they borrowed from the French, such as provost, bailiff. According to their ancient clannish constitution, it is very evident, that the king had no sole jurisdiction, except over his own clan; for as to all disputes between different clans, they were discussed and determined in parliament; and when they began to have a regular constitution, and high courts regularly established in Scotland, it is evident, both from the model upon which they were established, and from some of their ancient laws, that the judges of their high courts were appointed by the king in parliament, that is to say, by the advice and with the consent of parliament. Nay, it appears that those courts were really at first committees of parliament. Their Court of Session, which is now the supreme court of all civil causes, was, by an act of James 1 of Scotland, to consist of the lord chancellor and certain persons of the three estates, to be chosen by the king, and to judge in all causes proper for the king and his council; that is, I suppose,

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all causes which were not by the constitution to be determined by the parliament only, which seems then to have been the case with respect to all causes concerning fee, or heretage; for by an act of parliament of James 2, the Lords of Session were appointed by a commission of parliament, directed to some of their own number; and empowered to determine all civil actions, not concerning fee or heretage.

In short, Sir, the jurisdictive, as well as the legislative power, seems, by the constitution of Scotland as well as that of England, to have been originally lodged in king and parliament; for which, with regard to Scotland, we have two very great authorities: one is, that act of parliament in the reign of their James 2, which declares, that no regalities shall be granted without deliverance, that is to say, without the express consent of parliament; and the other is the opinion of that great Scottish lawyer, and learned gentleman, sir George Mackenzie, who begins his chapter upon the jurisdiction of the parliament in crimes with these words, "Since the parliament is the supreme judicatory, it may certainly cognosce all causes in the first instance." And though in his Institutes he says, that all jurisdiction flows originally from the king, yet he must certainly there mean from the king in his parliament, in order to be consistent with himself. And, indeed, to say, that the jurisdictive power was ever, either in England or Scotland, or is now, wholly and solely lodged in the crown, would be something worse than ridiculous; for if it were so, the king could then, by his single authority, and without an act of parliament, abolish all the chief courts throughout the United Kingdom, and establish a new sort of courts in their room; which, I believe, no advocate for the power of the crown will be hardy enough to maintain.

I therefore hope, Sir, that the words, "for restoring to the crown the powers of jurisdiction originally and properly belonging thereto, according to the constitution," will be erased out of the preamble of this Bill. They did not originally belong to the crown, nor ever can properly belong to the crown, as long as our constitution endures. They belonged originally to king and parliament, and were granted away by king and parliament, or they were illegally granted. If they were granted away by king and parliament, you do an injustice to the proprietors, by forcing them to sell them at any price, since there is no public necessity for so doing. If they were illegally granted, the present possessors have no right to them, and you do an injustice to the public, by making it pay a price for what is really and *bona fide* its own. In either case, his majesty must do an act of injustice, by giving the royal assent to the Bill; and this of course may alienate the affections of many of his best subjects. The principles of loyalty and affection to our present royal family are so riveted in those who are now the possessors of these Heretable Jurisdictions, that this injustice, great as it is, will not, I believe, alter their sentiments; but their successors will reflect upon, and will feel the injustice done to their families under the royal family now upon our throne, and this may tempt them to turn a longing eye towards a family which I need not name.

Sir, the injustice to be done by this Bill to many of the best families in Scotland, is so evident, and so flagrant, that it may produce disaffection among many of the great families in England as well as Scotland. We have several noble or honourable families amongst us, who have high offices, rights of admiralty, of shrievalty, and manors or lordships with honourable and valuable privileges annexed to them, which are hereditarily established in their families: such noblemen and gentlemen will with reason be under continual apprehensions, lest this Bill, if passed into a law, should be made a precedent for compelling them to part with all those honourable and valuable rights that belong to them, for such a price as the king's judges shall put upon them, and to be paid at such a distant day, as those judges shall please to determine. Who can say, Sir, that some future minister may not fancy, that inconveniences have arisen, and may arise, from any right which distinguishes a great and ancient family from those mushroom families that are daily starting up amongst us? An upstart minister, grown rich by the favour of his master, and the plunder of his fellow-citizens, may be very apt to entertain such a fancy, and what is proposed by this Bill, will furnish him with a precedent for bringing all to his own level. This, I think, Sir, is far from being an imaginary apprehension; and therefore I must conclude, that the passing of this Bill into a law will not only alienate the affections of many of his majesty's best subjects, but will be a precedent of the most pernicious conse-

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quence to those families in England, who are possessed of any peculiar and extraordinary rights or privileges.

I hope, Sir, I have demonstrated, as clearly as the nature of the subject will admit, every one of those propositions I set out with; and now I shall beg leave to examine, in as concise a manner as possible, the few arguments made use of for gaining our approbation to this Bill. In the first place it is said, that the passing of this law will be a beginning towards making the laws the same in both parts of the United Kingdom. Sir, to begin with a plain breach of the Articles of Union, and a flagrant piece of injustice to many of the best families in Scotland, is, in my opinion, a very bad beginning, and will, I am afraid, make the people of Scotland think, that every future attempt you make, is designed, not for their utility, but to answer some secret purpose of our ministers; and unless better care be taken in the appointing of the new sheriffs and under-sheriffs, than is usually taken in the appointment of any officers within the province of our ministers of state, I have reason to suspect, that the poor people of Scotland will find themselves more oppressed and fleeced by the officers of the crown, than ever they were by the officers of their hereditary lords; which will add to the disgusts this measure must necessarily create.

The second argument was, that we might restore to the crown the jurisdictions originally belonging to it, and which it ought never to part with. Sir, by a parity of reason we may argue, that the crown ought never to appoint a judge for life, grant a corporation an irrevocable charter, or a subject any irrevocable power, privilege, or office. This is a doctrine that may be embraced in arbitrary governments, but, I am sure, it ought never to be advanced, much less endured, in a free one.

The third argument was, I think, Sir, about a balance of power between the crown and the lords of Heretable Jurisdictions in Scotland, which was said to be overturned by abolishing the privy-council of that kingdom; as if the privy-council of Scotland, with their process of inter-communing, and letters of fire and sword, but without any regular troops to put their letters in execution, had more power than the government of Great Britain, with an army of 20,000 men at its back. Nothing, Sir, but the want of a good argument, could make any gentleman think of such an argument as this, the very stating of it in its plain and simple dress being a sufficient answer.

The fourth and last argument made use of was, that by abolishing these Heretable Jurisdictions, and vesting them again in the crown, we shall make the people of Scotland sharers in that happiness and freedom which the people of England enjoy under our present royal family: for God's sake, Sir, when did the people of Scotland complain of their not enjoying the same happiness and freedom? They are mightily obliged to us, surely, for being more solicitous about their happiness and freedom, than they are themselves. From this over care, they and we both have reason to suspect a snake in the grass; and the people of Scotland, who have generally as long heads as their neighbours, are, I believe, sensible of what I have demonstrated, that they may, and probably will, be more oppressed by under-sheriffs appointed and supported by ministers of state, than they ever were by the under-sheriffs, or other officers appointed by their hereditary lords: and they certainly foresee, that as the Lords of the Session are all appointed by the same ministerial power, even those that can apply to them, will find it more difficult to obtain redress against the injustice of the former, than they ever did against the injustice of the latter.

As to the danger of the public tranquillity being disturbed by means of the influence these lords of Heretable Jurisdictions have over the people within their jurisdiction, no such danger can be apprehended, as long as the people in general are well affected, and do not think themselves oppressed by the government, or its under agents. Neither of the late rebellions in Scotland proceeded from the influence of any one or more lords of Heretable Jurisdictions, but from the general disaffection of the people where the rebellion first broke out, and the neglect of our ministers, who did not take care to have a military force in that country, sufficient for keeping quiet a people that were known to be so disaffected, and so ready to fly to arms: and I must observe, that both these rebellions might have become much more dangerous, if it had not been for the active loyalty of several of these lords of Heretable Jurisdictions. But what will you do by this Bill? You may very probably do as king Charles I did: by the new magistrates you are to intro-

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duce you may raise a general popular discontent: and by the injustice you do to the great families, you may give heads and leaders to the discontented people. That unwise and unfortunate king disobliged most of the great families in Scotland, by revoking all the grants of church lands made by his father; and at the same time he raised a general popular discontent, by endeavouring to force the Prayer Book into the public worship of that kingdom: this brought an army from Scotland against him, and that army was the occasion not only of the civil war raised in England against him, but of his total defeat at the battle of Marston Moor.

When these Arguments were finished the question was put, whether the Bill should be read a second time? Which was resolved in the affirmative by 99 against 74. And on the 14th, there was another division, whether the Bill should be read for the second time on that day; which was also carried in the affirmative by 233 against 102.* On the 30th, some Petitions were presented against the Bill; but these being chiefly on the principle of property being affected, and it appearing, that an equivalent in money would be made, they fell of course. The Bill was next committed and reported. On the 14th of May, the question was moved, Whether the Bill should pass? Upon which, a debate arising,

Mr. *George Lyttelton* rose and said:†

Sir; If it could ever be probable that any Bill of great moment, especially one in which not only the national interest but many particular interests are also concerned, should pass through the House without debate, this I should have thought would have done so; because none has ever been more universally called for by the voice of the nation, none has ever undergone a longer and deeper consideration before it came into the House, or been considered by abler men, or with a more attentive, impartial, and candid regard, to any material objections. However, Sir, notwithstanding these favourable circumstances, I did expect that in the committee there would be some difference of opinion among us about particular clauses; and I rather wished that there might; because an affair of so very serious a nature cannot be too carefully and strictly examined: and because, if there are really any faults in the Bill, I most sincerely desire that they may be amended. But I did not expect, I am extremely surprised, that it should be opposed upon the principle of it, that it should be opposed as a breach of the Union; and my concern is equal to my surprise. Next to the breaking of the Union, I hardly know a worse misfortune that can befal the whole United Kingdom, than to have it suggested in a House of Parliament that it is broken, and to have that suggestion prevail in the minds of the people of Scotland. It is a suggestion in which the enemies of Scotland and England will find their account, the friends cannot; and, as I think it is groundless, I do most heartily grieve that it has ever received any countenance here. God be thanked, they who are at the head of the law in Scotland have other notions.

In the Return made by the Court of the Session to the House of Lords concerning the Heretable Jurisdictions, this is the manner in which they have expressed their judgment on that point. These jurisdictions, by the treaty of Union, are secured to the proprietors as rights of property, and therefore cannot, "without due satisfaction made to the owners," be taken from them. If therefore "due satisfaction be made to the owners," it is the opinion of the Lords of the Session, that these jurisdictions may be taken away without any infringement of the treaty of Union; and that is the principle upon which this Bill entirely proceeds, no jurisdictions are taken away by it without due satisfaction made to the owners. Where, then, is the wrong, where is the violation of the *pacta conventa* between the two nations?

Sir, I have considered the treaty of Union with all the attention and care I possibly could, startled by the objections

* The hon. Horace Walpole to the hon. Henry Seymour Conway. Arlington Street, April 16, 1747.

"We have had a great and fine day in the House, on the second reading of the Bill for taking away the Heretable Jurisdictions in Scotland. Lyttelton made the finest oration imaginable, the Solicitor General [William Murray, afterwards earl of Mansfield], the new Advocate [William Grant, Lord Advocate of Scotland], and Hume Campbell, particularly the last, spoke excessively well for it, and Oswald against it. The majority was 233 against 102. Pitt was not there; the duchess of Queensberry had ordered him to have the gout." Lord Orford's Works, Vol. 5. p. 27.

† This speech is printed from his own copy.

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that have been made by some persons for whose judgment I have the highest regard and respect; but I protest that, after the strictest examination, there does not remain in my mind the smallest apprehension, or shadow of doubt, that it can in the least be infringed by our passing this Bill. The 18th and 20th articles are all that relate to the matter now before you. By the 18th a distinction is made between the laws that concern public right, policy, and civil government, and those that concern private rights; the first are declared to be alterable by parliament, the latter not, except it be for the evident utility of the subjects within Scotland. Now, Sir, not to insist on any difference between rights of property and private rights, but allowing that this article extends alike to the securing of both from being altered by parliament, yet still the exception contained in the same article—that it may be done for the evident utility of the subjects in Scotland—is fully sufficient to vindicate this alteration from being any infringement of the treaty of Union; nor can any distinction be made between this sort of property and any other existing in Scotland, but that the public is more affected by this than by any other.

As to the 20th article, the intention and purport of it appear to be evidently this, that whereas these jurisdictions and superiorities are of a mixed nature, and might well be supposed to concern policy and civil government, and to be alterable by parliament, even without compensation made to the owners; they were declared, by this article, to be rights of property, in order to put them on the same footing with other private rights, and to secure an equivalent to the proprietors, in case they should afterwards be taken away by the wisdom of parliament; a case that was easy to be foreseen, because the inconvenience and evil arising from these jurisdictions had been pointed out more than once by parliament before the Union, and because, till this has been done, I will venture to affirm, the scheme of the Union in all the beneficial purposes of it, will not be fully completed. In the very words of this article a power of making this alteration is easily implied. The Heretable Jurisdictions and superiorities are there reserved to the owners thereof as rights of property, but in what manner? In the same manner as they were then enjoyed by the laws of Scotland. Now, Sir, by the laws of Scotland, could not the Scotch parliament, before the Union, have altered this property, as well as all other property, upon due compensation made to the owners, for the good of the public? They certainly could; and therefore they are declared to be now held and enjoyed subject to the same power of alteration by parliament. If the treaty of Union had established a property that could not be subject to the power of such alteration, upon such grounds, it must, at the same time, have established a maxim fundamentally contrary to the first principle of all civil society, and entirely destructive to it; this most preposterous maxim, that the good of the public ought to give way to private advantage: but such an absurdity cannot be charged upon the wise legislatures of England and Scotland. Indeed, Sir, in no state upon the face of the earth, ever was there a property, or ever can there be any, which may not occasionally be altered or taken away for the good of the whole, if proper amends be made to the proprietors. Even the property of our kings has not been exempt from this general rule of law; the wardship of those who held immediately of the crown (that is, of all the nobility and gentry of England) was a property fixed in our kings, even from the first settlement of the feudal law in this kingdom. It was an hereditary right of the crown; and yet, for the good of the whole, because it was thought to be hurtful to the public, the parliament took it away, granting at the same time an equivalent to the crown. Did any man ever suppose, that this act was an injustice, or any breach of the compact between the king and the people; a compact as inviolable as the *pacta conventa* of the Union itself? Was it ever considered, I say, as a violation of that, or as any affront to the royal dignity? No, it was never so thought of by the most zealous assertors of the rights of the crown. What, then, is the property of the barons of Scotland of a more sacred nature, or is their honour more tender than that of the king?

Give me leave to observe to you, that this ancient right of wardship was taken away in the first year of the Restoration of king Charles 2, before he had made any ill use of those powers; but, as the powers themselves were judged to be naturally hurtful, it was not considered in whose hands they were lodged, nor what use was made of them at that particular time. The wisdom of parliament looked to futurity, and thought it expedient to buy off and to

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abrogate this undoubted hereditary right of the crown; not from any complaint of a present abuse of it, but because in former times it had been abused, and might be again.

Sir, it is said these jurisdictions were not any cause of the late rebellion in Scotland, for that the proprietors of them were all firm and loyal on the side of the government. The fact, I believe, may be controverted, but I will not dispute it; because, if it be not universally true, it is certainly true with regard to the far greater number: the far greater number of them was firmly and zealously attached to the government, and I think they deserve the highest returns of favour, honour and gratitude, from their king and their country. No man can detest more than I do the false and scandalous libels, breathed from the malignant spirit of Jacobitism, under the mask of zeal for the government, which have imputed to them, or to the Scotch nation in general, any disloyalty or disaffection. Certain I am, that nothing can be further from the true meaning and intent of this Bill, than to throw any blame on their conduct. It is a Bill for prevention, not of punishment; a Bill of general policy, that does not aim at particulars, but considers the whole; considers past times, and future, as well as present. If I am rightly informed, in the year 1715, all these jurisdictions were not on the side of the government. The weight of many of them, at that time, was felt very dangerously on the side of the Rebellion. I admit that, in general it was otherwise now; but to argue from thence against the principle of this Bill, would be to reason, I must say, upon very short views. If there are in the nature of these jurisdictions any powers inconsistent with the good order of government, or with that true and sound policy which carries the majesty and justice of the crown into every part of the state, and presents to the eyes of the subject no other object for his obedience, no other executive power, no other foundation of justice, except the king; if there is any thing in these regalities, superiorities and jurisdictions, or in the authority usurped and exercised in imitation of these by the chiefs of the clans, which in any degree interposes itself between the crown and the people, between the head of the commonwealth and the members; however the influence of such irregular powers may have been used on a late occasion, there is in the powers themselves a root of danger, whic it becomes the prudence and foresight of wise legislature not to allow to continu any longer. Sir, it should be plucked u not with a rough and violent, but a firi and determined hand. Of this I am surc that it is more for the honour of govern ment, more for the welfare and safety o the people, to see effects in their causes and to destroy the seeds of future com motions, than to wait till they come t that fatal maturity, which, at the sam time that it renders the evil more apparent may disable the legislature from effecting the cure.

I remember a fine panegyric made by lord Bacon on the laws of Henry 7: "His laws," says this wise historian, "were deep, and not vulgar; not made upon the spur of particular occasion for the present, but out of providence for the future, to make the estate of his people more and more happy." All these admirable words may, with great justice and truth, be applied to the Bill now under your consideration. It was the policy of king Henry the 7th to break the power of the barons, and to deliver the people from the yoke of that power as much as he could; and to the consequential effects of that policy, rightly pursued by some of his successors, upon the foundations he had laid, are owing the commerce, the wealth, and the liberty, which the nation enjoys at this day.

Sir, I have heard in this debate, with no little surprise, an imagination thrown out by some gentlemen zealous for liberty, as if the purchasing of these jurisdictions and superiorities out of the hands of the present possessors, and restoring them to the crown, would be very detrimental to public freedom. I have read a good deal upon the nature of government, and from the result of that application, I believe I may venture to lay it down as a maxim, that in every kingdom where great powers (especially of judicature) are lodged in the hands of particular subjects independently of the crown, it is for the good of the people that they should be taken out of those hands, and lodged in the crown. The contest, in that case, is not, as these gentlemen seem to apprehend, between the crown on one side, and the people on the other, but between the crown and the people united together in one common cause, against the interest of those in whom powers of that nature are vested, which is an interest distinct from both, and hurtful



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to both. In other words, Mr. Speaker, it is not a dispute between liberty and prerogative, but between oppression and government. This is so true, that in no one of the several Gothic constitutions established in Europe, did ever the people attain to any considerable share of wealth or freedom, till they had been emancipated from such jurisdictions, and till all the other powers of the great feudal lords, those petty tyrants, too potent for subjects, too weak for sovereigns, strong enough to oppress, but unable to protect, were entirely absorbed in the more beneficial and salutary power of the crown.

Indeed, Sir, in every limited monarchy (that is, in a free government which has a king at the head of it), the power of the crown, when acting within its due bounds, properly restrained and confined by law and by parliament, is the authority of the whole commonwealth. It is not an interest set up in the king against that of his people. No, the power of the crown is only a name for the executive part of the government: it is the vigour and energy of the whole state, which acts for the benefit of all its members; though, in the language of the law, the exertion of it is called the act of the crown. This is particularly true in matters of judicature, and the administration of justice. The exercising of these is a power, which it is so much the interest of the whole commonwealth to place in the crown, that when a king divests himself of it, he so far withdraws the protection he owes to his subjects, and loosens the bond of their fealty and allegiance. "Will you not hear my cause?" said a suitor for justice to Philip of Macedon; "why then you are not my king." Philip admitted the force of his reasoning, and confirmed him his subject by hearing his cause. If he had referred him to a great lord, to an hereditary judge, the man would have taken that lord, that judge, for his king. It is in the dispensing of justice, in the protecting of right and redressing of wrongs, that the royal authority best appears to the subject. This view of it excites his veneration and love. But when any part of the people do not see their sovereign in this amiable character, they are too apt to forget him, and turn their eyes and affections another way. On these principles the wisdom of our constitution has made all jurisdiction immediately flow from the crown: extend that wisdom to Scotland, let none be exercised in the most distant corner of these regal dominions, where insurmountable difficulties do not prevent an alteration, otherwise than in the name of the king, and by virtue of his commission.

This is an eternal maxim of policy; it is not now taken up from any sudden heat or resentment, but upon cool and mature deliberation; let it not be laid down, because of any sudden heat or resentment arising against it without a reasonable cause; such resentment cannot be lasting, time and experience will certainly overcome it. But the great benefits that will be derived from this Bill, if it shall pass into a law, the good influence it will have over the whole British state, will last, I hope, to the latest posterity. Can there be a better or happier fruit of the Union, than an active communication of the generous, free, and noble plan of the law of England, in the room of those servile tenures and barbarous customs, which in Scotland deform the system of government; and, by the effects which they have over that part of the people, which being least civilized is consequently more prone to disorder, disturb the peace and endanger the safety of the whole constitution? When this is accomplished, when these thorns are once rooted up, the way will be open to many other improvements, to the introduction of arts, of manufactures, of industry, of all the virtues and sweets of civil life, in the wildest parts of that country; but all these blessings must be the gifts of good government. Before you can hope to make those people good subjects, or in any manner useful, you must first shew them more evidently whose subjects they are. Before they can be mended by the instructions of government, they must be protected by its power, and relieved by its care. Authority and justice must take the lead in this great work of reformation: discipline, peace, and civility, will follow after.

I hope it will not be necessary to say any thing more, in order to shew what this Bill is not; that it is not a breach of the Union, that it is not an infliction of penalties on the innocent and well-deserving; but allow me only to sum up, in a very few words, what I conceive that it is. It is a Bill to secure and perfect the Union, to carry off the king into every part of the United Kingdom; and, together with that royal justice, a more settled peace, a more regular order, a surer protection, a closer and stronger bond of allegiance; to put an end to all those dependencies that combine



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men together not as subjects of the same king, or fellow-citizens of the same state, but as followers of particular lords, and which create an awe and an influence alike incompatible with liberty or with government. This will be done by this Bill; and when you do this, you do at the same time, by a necessary consequence, strengthen the whole constitution, strengthen the crown on his majesty's head, strengthen the establishment in his royal family, and make the cause of the Pretender more desperate; for this is most certain, that all irregularities and disorders in the state, all divisions from the rule of true policy, and from the true genius of the English constitution, naturally tend to a change of government; and will, sooner or later, if they are not prevented by a wise and timely precaution, produce or assist such a change. These are the objects of a Bill against which such unfortunate and unreasonable prejudices have been conceived. I cannot better commend the policy of it, than in some words of a great lawyer, and a great statesman, sir John Davis, in his book upon the state of the kingdom of Ireland, an excellent work which has been lately reprinted: The words are these:—"There can never be concord or unity in any one kingdom, but where there is but one king, and one allegiance."

The question was afterwards put, and the Bill passed by a majority of 137 against 53.

*Debate in the Lords on the Bill for Abolishing the Heretable Jurisdictions in Scotland.**] May 21. The order of the day being read for resuming the further consideration of the Bill, intituled, An Act for taking away and abolishing the Heretable Jurisdiction in Scotland, &c. it was moved to commit the same; which being objected to, the question was put—Whether this Bill shall be committed? It was resolved in the affirmative.

*Protest against committing the Heretable Jurisdictions Bill.*] Upon which the following Protest was entered:

"Dissentient,

1. "Because changing the civil constitution of Scotland, which the Act of Union reserved, and taking from the great families in that part of the kingdom, without their consent and against their will, their ancient rights and inheritances to be purchased by the public in this time of their distress, at a great but uncertain expence, appears to us to be so extraordinary an exertion of the power of parliament, as could only be justified by some necessity of state, or by some general, manifest, and urgent utility to the public.

2. "Because we apprehend this Bill not to be justified by any necessity of state, since it is manifestly and avowedly ineffectual, if calculated for adding any further security to his majesty's government, because it is not so much as pretended that this Bill can have any effect upon the influence of clans, which arises from no legal authority; and since from the legal jurisdictions subject to the controul, and necessarily under the direction of the king's courts in Scotland, danger to government is no more likely to rise, than from the influence which rank and pro-

* Notes of Debate on the Question for Committing the Bill for abolishing the Heretable Jurisdictions in Scotland, May 21, 1747. From the Original, in the handwriting of Lord Chancellor Hardwicke.

Duke of *Beaufort*, *con.* 1. These jurisdictions did not contribute to the late Rebellion—that owing to the blind obedience which the Highlanders pay to their chiefs. 2. A direct breach or infringement of the Union. 3. Not force upon the Scotch a blessing which they tell us they do not desire. 4. Cannot be for mere love and kindness we would give them half a million. 5. Members of parliament will be returned by ministerial mandates—for this will increase the power of the crown.

Lord *Berkeley* of Stratton, *pro.*

Earl of *Findlater*, *pro.*

Earl of *Moray*, *contrà.* I thought that the doctrine that these Jurisdictions have encouraged or given opportunities to rebel, was long since exploded—States the 20th Article of the Union—Shall remain as they are notwithstanding the Union—Breach of the Union as to the Court of Session—The subjects property to be determined by two men, or perhaps one—To lose that property on a certain day, and to get satisfaction on an uncertain day—Bill for the sale of the Isle of Man—only enabling.

Marquis of *Tweddale*, *pro.* I have an opinion of my own.—Think the abolishing the Heretable Jurisdictions expedient.—By the Articles of Union are only reserved as rights of property—private rights.—Were I to consider this Bill in a provincial consideration, I should think it inexpedient. But consider the state of the Highlands—always governed by different laws—if those put in execution, the mischiefs from them would not have happened. In the reign of king James 5th was the first establishment of settled courts of justice at Edinburgh. In Charles 2nd's reign the Act of 1681 passed.

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perty may acquire in any other part of his majesty's dominions.

3. "Because the utility to the subjects in that part of the kingdom from this Bill, is not apparent to us, since it is not imagined that a real, a great, and extensive benefit should not be desired by the people of Scotland, when rendered to them, but, on the contrary, should meet with strong opposition, cold acquiescence, or silent disgust; and since no single instance of grievance has been alleged; but, on

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I own this no urgent cause of the Rebellion—but contributes to it. I have heard it truly said, that since the Union little has been done to render the Union more complete. It was right to abolish the Scotch privy council; but in that court the execution of the laws concerning the Highlands was placed.—This was the check upon them; and yet, though taken away, nothing set up in the room of it.—The next law was relating to treason. So ill considered as that it has made it impossible to try traitors in Scotland. These laws have failed. This Bill alone will not cure the mischief: The assistance of the military will be necessary. Could have wished clauses had been inserted for this purpose—and to enable the sheriff of to call the inhabitants before the court, and oblige them to register their names and give security.—As to particular clauses—The bringing appeals in civil causes before the circuit courts.

Earl of *Westmoreland, contrà.* No proof or complaint of any inconveniencies. I imagine myself carried forward into futurity, and set down under a government where kings rise up in every corner—a kind of bastard government.

Earl of *Sutherland, contrà.*

Duke of *Argyle, pro.* A question between the crown and many persons of the highest quality in Scotland—most certainly contrary to the opinion of great numbers of people of Scotland for various reasons: 1. That it carries a reflection upon the people of Scotland, as if all were disaffected. If it had been possible for all the people of Scotland to have heard what was said by the noble lord, &c. this objection would have vanished. 2. In all nations and all times, the very best regulations, if new, are often pursued with great prejudices. 3. Apprehended that it is taken in England, that these Jurisdictions have been the cause of the Rebellion. Every great power vested in subjects may be an ingredient. 4. As to the objection of breach of Union. No light matter to take up such an objection against any measure. 5. Another cause for the lower class of the lawyers. 6. Disaffection of some persons. I thought it at first too soon to begin a project of this kind. I was willing to surrender my own jurisdiction. If justice done, far better for me that it should be done by the king's courts than my own. It will be better supported and enforced. If right to take any away, it is certainly my own, because the highest.—No appeal.—It has created jealousy from the crown, and envy from our fellow-subjects. It would be happy for all who have estates in the Highlands, if all the powers of Clanship were abolished—it would improve their estates.—As to these Jurisdictions themselves—took rise with the feudal law about 1,000 years ago. Till the Union it was the defence of the kingdom. The barons maintained the king in his wars. The barons defended the liberties of the people against the invasions of the crown. At the Revolution the act of 1681 was declared a grievance. These Jurisdictions then considered as a guard to the liberties of the people. But, till the Union; Scotland was not free. The parliament of Scotland no security. Sat but a few days, and the last day Bills proposed, and read only once. The crown could increase the peerage—create burghs. Lords of the articles, 32 chosen in a particular manner. Nothing could be brought into parliament, but what came from this society of men. Another sort of parliament, the Convention of the States—the crown lawyers said that was to lay taxes, and no matter who. They called any body out of the streets to it. This not being sufficient to aggrandize the crown, the privy council was added. 'Twas rightly observed, that the laws for restraining the Highlands had a wrong cast—proceeded on a supposition that the chiefs had the command of them—subjected the people to them. The privy council had the power of whipping, pillorying, and banishing without juries, for they used none. Power to declare contumacious, and issue a commission of fire and sword—in some cases could declare their orders to have the force of an act of parliament.—Court of Exchequer and Treasury during pleasure, judged in all mercantile cases.—The tenures of the crown—Wardships.—The Scotch laws concerning treason. One witness sufficient. Nay, even the books say, infamous persons may be witnesses in treason. A man might be attainted after his death. In the family of Rastlerig†, a man's bones taken up and brought to the bar to be tried.—The severe laws about leasing-making. Nothing like a Habeas Corpus in Scotland, till the act against Wrongous-Imprisonment in 1700.—No wonder that people were fond of any powers to fence themselves against these things.—In England these jurisdictions subsisted formerly. Am very much of opinion that by them the liberties of the people were protected, and by the great men that had them *via facti.*—Now the case is altered, and the preservation of liberty depends on the parliament. These powers caused such frequent changes of the crown.—These jurisdictions subsist in France—in Germany,—Holland, in one of the provinces, a great jurisdiction of this kind subsists.—The laws and liberties of Scotland should now stand on the same foundation

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* See Howell's State Trials, Vol. 2, p. 707.

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the contrary, it has been acknowledged that no bad use has been made of this part of the ancient civil constitution of Scotland, which it is intended by this Bill to abolish at once, and for ever.

4. "Because we do not conceive the policy of making without necessity, at this time, by a permanent law, so considerable an alteration in government; nor do we apprehend the wisdom of purchasing an ineffectual problematical plan by a certain, but unknown expence. Neither do we understand how it is consistent with justice to abolish the rights of the parties concerned, without previously adjusting their compensations; nor can we reconcile with our duty to the public, the delegating to the Court of Session in Scotland, the power of fixing the sums to be raised upon the people, a new method of creating a new load of expence in no degree ascertained, or ever suggested to parliament.

5. "Because we apprehend, by the maxims of the constitutions of this country, influence in the hands of the crown is more to be feared by the abuse of ministerial power, especially in the election of members of parliament, than when in the hands of the nobility and gentry, whose rank and property are naturally the supports of a free government; and we can-

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as in England, the parliament of Great Britain. This the alteration.

Obj. That this Bill is a breach of the Union: Ans. I was at the meeting where the 20th article was proposed. It was proposed in the same words by the Scotch Commissioners, proposed by us in different words for the very next article of the royal burghs. Reserved as rights of property, and therefore only purchased now. Instances of that kind—act of parliament of Scotland purchasing their East India Company: Act about advowsons. Obj. Abolished, and for their satisfaction purchased. Indeed in this Bill I could have wished that had been otherwise; but the great difficulties attending that, made it almost impracticable. Impossible to suspect the faith of parliament. I think this Bill will have good effects; but it will be necessary for the administration to give attention to the execution of it, and to the preservation of the peace of the Highlands. Greater care required, after taking away these jurisdictions than before,

Earl of *Morton, contrà.* I will consider the Bill under a general view. I will admit that the parliament of Great Britain has a power in cases of necessity, to vary from the Articles of Union. I think the parliament of Scotland had more power over these jurisdictions than the parliament of Great Britain has.—The band of this contract, the *bona fides;* no superior judicature has power over them.—The utility not apparent; very precarious—many arguments against it. These jurisdictions had no authority either in raising or suppressing the Rebellion.—Two noble dukes on the side of the government who have jurisdictions could not them out.

The Clanism.—The clans know nothing of a king or no king; they follow their chief, and him only they worship and serve.—Story of the clan of the Grays and the earl of Sutherland.—One great mistake in the government of Scotland the committing the whole administration of it to one person. This always done of late. The powers of the aristocratical part of the government not in a way of increasing. This Bill affects the nobility of Scotland chiefly. Are not they low enough? Must every clause of the Articles be construed rigorously against them? The successors of rebels are in a better situation in this respect, than the peers of Scotland who have preserved their liberty. This Bill throws a great increase of power into the ministry. I saw twenty declarations of the Pretender, three parts in four of which were taken out of Protests of this House.

Earl of *Chesterfield, pro.* 1. This Bill so far from being contrary to the Articles of the Union, that the measure of it is pointed out by them. The great ends of the 4th Article, that there shall be a communication of all rights, privileges and advantages, which do belong to the subjects of either kingdom, except where it is otherwise expressly agreed by these Articles. By the 20th Article, these jurisdictions are reserved. If the other construction is right, these jurisdictions would be more strongly reserved than the great courts, for they are not reserved subject to alteration. Sir James Stuart's opinion. The return of the Court of Session, that they cannot be taken away without due satisfaction made.

2. As to expediency. I will not say that they were the cause of the Rebellion; but they did contribute to it. Obj. That you owe your liberties to the power of the barons. Ans. Because they would have no king but themselves. These powers intercept the protection of the crown. If the crown meant to be arbitrary, would they chuse to have twenty, or twenty-five great men to deal with, or that the whole people should be free? This is a Bill of manumission; it restores liberty to thousands. In Scotland there never was a calm that succeeded troubles, but it was attempted to take away or restrain these jurisdictions. Lord Lovat's opinion given to his two friends the day before his execution. I agree that this Bill is not alone sufficient, 'tis a foundation on which a good superstructure may be raised.

Duke of *Montrose, pro.* Is for the commitment, but fearful it should import an entire approbation of the Bill. The substitution the most material part of this Bill, and not the abolition. The clause about the returns of members proper to be considered.

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not conceive how the liberty of Scotland will be better preserved by this Bill, which (in our opinion) manifestly tends to constitute at this juncture a new influence over all the counties of North Britain, by throwing a great and dangerous power into the hands of ministers; especially when it is avowed, that such an alteration of government may necessitate the introduction of a military force. A fatal symptom! when it can even be mentioned in a British parliament, that a measure avowedly ineffectual for the safety of government, and evidently unnecessary for the public utility, must probably be carried into execution by military force, which, if allowed, and not exerted, must produce an influence of the most pernicious kind; if exerted, establishes a military government of the most dangerous nature, because marked under the former civil government; a practice tending in either case totally to subvert the constitution of this country, and to which therefore we can never consent. *(Signed)*——Denbigh, Litchfield, Stanhope, Ward, Talbot, Oxford and Mortimer, Westmoreland, Ferrers, Shaftesbury, Beaufort."

*Complaint in the Lords against Cave and Astley for printing the Trial of Lord Lovat, and the Debates of the House, in the Gentleman's and London Magazines.*] April 8. Complaint was made to the House, and oath at the bar, "That, in a printed pamphlet lately published, intituled, 'The Gentleman's Magazine, for March, 1747. London, printed by E. Cave junior, at St. John's Gate,' there was printed an account of the Trial of Simon lord Lovat, before his peers, in Westminster-hall." And the title thereof being read, by the clerk; as also some passages of the said Trial: ordered, That the Gentleman Usher of the Black Rod attending this House, his deputy or deputies, do forthwith attach the body of the said E. Cave, and bring him to the bar of this House, to answer for his said offence.

Complaint was also made to the House, and oath at the bar, "That, in a printed pamphlet lately published, intituled, 'The London Magazine, or Gentleman's Monthly Intelligencer, for March 1747. London, printed for T. Astley, and sold by R. Baldwin junior, at the Rose in Paternoster Row,' there was printed a brief account of the Trial of Simon lord Lovat, for High-Treason." And the title thereof being read, by the clerk; as also some passages of the said Trial: ordered, That the Gentleman Usher of the Black Rod attending this House, his deputy or deputies, do forthwith attach the body of the said T. Astley, and bring him to the bar of this House, to answer for his said offence.

April 7. Upon reading the Petition of Thomas Astley, now in custody by virtue of an order of this honourable House, for printing and publishing some proceedings, in relation to the Trial of lord Lovat, in "The London Magazine" of last month; expressing his sincere sorrow for his said offence; begging pardon for the same; and hoping, in regard to his infirmities, "That the House will please to order him to be discharged out of his present confinement; promising that he will always hereafter take the utmost care in his future publications, that there shall not be given the least offence to this most honourable House, or any member thereof:" it was ordered, that he be brought to the bar of this House, to-morrow.

April 8. Thomas Astley was brought to the bar, and, being shewed the book or pamphlet complained of, he owned, "He published the same; but was not apprehensive it was a breach of privilege, being compiled chiefly from newspapers." He was then examined, as to the Debates contained in those pamphlets, and how he came by them; and said, "They were generally sent him by the penny post, or by messengers, pursuant to advertisements frequently inserted, inviting persons to furnish him with matters of that nature." But being more strictly enquired of touching that affair, he acquainted the House, "That he was supplied with a great many speeches by one Mr. Clark, whom he supposed was an attorney, and died in May last; but whether they were fictitious or genuine, he knew not; and, for aught he knew, they might be made by himself." Being asked, "What gratuity he made him?" said, "he had given him ten guineas at a time; and has received no speech since Clark's death, but by the post." The said Astley further acquainted the House, "He was the first who printed magazines;" and acknowledged, "That of late the debates have been inserted, under the notion of an imaginary club." And then he was directed to be taken from the bar.

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And the Lords Committees before named were appointed to consider of the offence committed by the said Thomas Astley, and matters this day confessed by him at the bar of this House, and what may be fit to be done in relation thereunto; and to report what they shall think proper thereupon.

April 10. Upon reading the Petition of Edward Cave, in custody of the Gentleman Usher of the Black Rod, for printing and publishing, in his magazine, a short account of the Trial of Simon late lord Lovat; expressing his sorrow for his offence: begging pardon for the same; promising never to offend again in the like manner; and praying to be discharged: it was ordered, that the said Petition be referred to the Committee to whom the Petition of Thomas Astley of the like nature stands referred.

April 30. The lord Raymond reported from the Lords Committees appointed to consider of the offence committed by Thomas Astley, for which he has been attached, and the matters confessed by him at the bar of this House, and what may be fit to be done thereupon; and to whom was referred the Petition of Edward Cave, in custody of the Gentleman Usher of the Black Rod, for printing an account of the late lord Lovat's trial, in "The Gentleman's Magazine;" expressing his sorrow for his offence, begging pardon for the same, and promising never to offend again; and praying to be discharged out of custody: "That the committee have met, upon the matter to them referred; and ordered the said Edward Cave to be brought before them. Who being brought accordingly, and the said book complained of being shewn to him; he owned, "That he printed and published it." Being asked, "How he came to publish an account of lord Lovat's trial, and from whom he had the account so published?" He said, "It was done inadvertently; he was very sorry for having offended; that he published the said account of the trial from a printed paper which was left at his house, directed to him; but he does not know from whom it came."

"Then the said Cave was asked, "How long he has been the publisher of the Gentleman's Magazine?" And said, "That it is about sixteen years since it was first published; that he was concerned in it at first with his nephew; and, since the death of his nephew, he has done it entirely himself." Notice being taken to him, "That the said books have contained Debates in Parliament:" he said, "He had left off the Debates; that he had not published any debates relating to this House above these twelve months; that there was a speech or two relating to the other House, put in about the latter end of last year." Being asked, "How he came to take upon him to publish Debates in Parliament?" He said, "He was extremely sorry for it; that it was a very great presumption; but he was led into it by custom, and the practice of other people: that there was a monthly book, published before the magazines, called "The Political State," which contained debates in parliament; and that he never heard, till lately, that any persons were punished for printing those books." Being asked, "How he came by the speeches which he printed in the Gentleman's Magazine?" He said, "He got into the House, and heard them, and made use of a black lead pencil, and only took notes of some remarkable passages; and, from his memory, he put them together himself." Notice being taken to him, "That some of the speeches were very long, consisting of several pages;" he said, "He wrote them himself, from notes which he took, assisted by his memory." Being asked, "Whether he printed no speeches but such as were so put together by himself, from his own notes?" He said, "Sometimes he has had speeches sent him by very eminent persons; that he has had speeches sent him by the members themselves; and has had assistance from some members, who have taken notes of other members speeches." Being asked, "If he ever had any person whom he kept in pay, to make speeches for him?" he said, "He never had."

"That the Committee ordered the said Astley, the printer of the London Magazine, to be brought in. Who being brought accordingly, the entry of the substance of his examination at the bar of the House, on the 8th instant, was read to him. Which done; he said, "That contained all the information he was able to give their lordships." Then he was asked, "Whether the letters, mentioned in his said examination to be sent him by the penny post, had any mark by which he could know from whom they came?" And said, "They had no such mark; that he does not know from whom they came;

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and he supposes upon such an occasion, the persons would disguise their common hand-writing." Being asked, "Whether he believes the Speeches, which he mentioned in his said examination to be furnished him by Mr. Clarke, were made by the said Clarke?" He said, "He believes some of them may; but Clarke has told him he has had helps from his friends." Being asked, "Whether he thinks any of the speeches which Clarke furnished him with were the speeches of the members?" He said, "He did sometimes believe that some of them were the members speeches; that Clarke represented them as such to him." Being asked, "Whether he knows that the said Clarke used to attend the House upon Debates?" He said, "He believes Clarke sometimes got into the House, behind the throne."

Which Report was agreed to by the House.

Ordered, That the said Thomas Astley, in regard of his lameness with the gout as not to be able to walk, be discharged out of custody, paying his fees.—On the following day, Cave was also discharged.

*Debate in the Commons on a Motion for a Monument to the Memory of Captain Cornwall of the Marlborough.*] May 28. The House was moved, that the Resolutions which, upon the 10th day of April 1745, were reported from the committee of the whole House, to whom it was referred to enquire into the Cause of the Miscarriage of his majesty's fleet, in the action in the year 1743, near Toulon, in the Mediterranean, against the combined fleets of France and Spain, and were then agreed to by the House, might be read: And the same were read accordingly. Upon which Mr. Carew rose up, and after descanting a little upon the misconduct of several commanders in that action, and mentioning the merit and bravery of capt. Cornwall, and how happy it would have been for the nation, if his heroic example had been followed, moved, "That an humble Address be presented to his majesty, most humbly to desire his majesty, that he will be graciously pleased to give directions, that a Monument be erected in the collegiate church of St. Peter, Westminster, to the memory of captain James Cornwall, late commander of his majesty's ship the Marlborough, who was slain whilst he bravely defended the said ship against the combined fleets of France and Spain, in the action before Toulon, in the year 1743; and to assure his majesty this House will make good the expence of erecting the said monument." This motion was seconded by Mr. Lyttelton, and supported by general Oglethorpe, who both spoke highly in praise of the said captain: which gave occasion to the following handsome return, by

Mr. *Velters Cornwall:*

Mr. Speaker; in my situation, I am at a loss how to conduct myself;—'Tacuisse 'nocet, nocet esse locutum.' I am under great difficulties to speak, and I should be under greater to be silent, especially after what has fallen from a very honourable triumvirate concerning an unfortunate relation of mine, who, could he be brought to life again, would, I am sure, think the bare mention of his name with approbation in this House, a sufficient reward for his best services to his king and country. It may be decent, perhaps, for me to think so too, but may I not with equal decency submit to their better judgments, avowing at the same time the eloquence of my worthy friends to be such, that their eulogies alone would be the most lasting monument they could bestow? For, Sir, if they will suffer me, I will give you my own opinion of each of these gentlemen.

I verily believe, Sir, that the first of them will be delivered down to posterity, as one of the most able and disinterested patriots, and, next to the chair, the most useful parliament-man that ever sat within these walls. The second is justly allowed to be the greatest orator of the present age; and, what is almost a peculiar in him, he is good as well as great. The numbers that have been recommended to the king, in his high station in the treasury, or any of the great offices, thus qualified, let others tell. I should stop;—but I cannot till I have attempted to do justice to my deserving school-fellow, who thirded this motion; and if my poor brother was as brave as he has painted him, whilst he lives, Sir, there is as brave a man left behind him; and I well knew that his character would emerge with the greatest lustre from the trial to which it was lately put by those low military minions of fortune, who had no way of raising their own fame, but by trying to tear some of the feathers out of his pinions. But, I will conclude, Sir, with returning them all my insignificant tribute of thanks, and a promise ever to retain the sense I now have of their generous sentiments, humbly sub-

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mitting their motion to the will and pleasure of the House.

The Resolution passed *nem. con.*

*The King's Speech at the Close of the Session.**] June 17. The King went to the House of Peers, and put an end to the Session with the following Speech:

"My Lords and Gentlemen;

"Nothing could have been more acceptable to me, than the zeal and dispatch with which you have gone through the public business during the course of this session. The care and attention you have shewn to extinguish any remains of the late Rebellion, and to strengthen the foundations of our future tranquillity by new provisions, as well for restoring the proper authority of the government in North-Britain, as for better securing the liberties of the people there, cannot fail to have the most beneficial consequences.

"The great efforts you have made for carrying on the war, in a vigorous manner, have shewn you not to be less attentive to our foreign than to our domestic interests. They have given spirit to my allies, and enabled me, in conjunction with them, to bring a numerous and powerful army early into the field; and to maintain strong squadrons at sea, for the protection and defence of our trade and possessions, the annoyance of our enemies, and for supporting and enforcing the operations of my allies in Italy. The invasion made by France upon the territories of the States-General of the United Provinces, has had a different effect from what our enemies promised themselves from it. The voluntary and speedy succour which I sent on that occasion, was received with the utmost joy, and has been of great use; and the States have thereupon, not only resolved on a great augmentation of their forces, which is actually making, but have taken such steps, as must convince our enemies, how determined they are vigorously to support their own independency, and the interests of the common cause. I have the peculiar satisfaction to acquaint you, that the union between Great-Britain and the Republic, so necessary for both nations, was never more cordial, or better established, than it is at present.

"The signal success which, by the blessing of God, has already attended my fleet, has happily disappointed some very pernicious projects of our enemies, and given a considerable blow to their naval strength, as well as to their commerce; which will be the most probable means of reducing them to reason. This is the great object which I have at heart; the sole view of all my measures being to put an end to the calamities of war, by a safe and honourable peace.

"Gentlemen of the House of Commons;

"I must acknowledge in a particular manner the zeal and application with which you have raised the necessary supplies for the service of the current year; and your readiness in making good the deficiency of the civil list funds, arising from the unavoidable consequences of war, is a fresh instance of that regard and affection which I have always experienced from you. To be able to effectuate all this immediately after the suppressing of an unnatural rebellion, and under the burden of war, must set the strength and credit of the nation in the highest light; and secure to the crown of Great Britain that weight and respect, both with its friends and enemies, which justly belong to it.

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* The Hon. Horace Walpole to the Hon. Henry Seymour Conway.

"Twickenham, June 8, 1747.

"You will think I have removed my philosophy from Windsor with my tea-things hither; for I am writing to you in all this tranquillity while a parliament is bursting about my ears. You know it is going to be dissolved: I am told you are taken care of, though I don't know where, nor whether any body that chooses you will quarrel with me because he does choose you, as ——— did; one of the calamities of my life which I have bore as abominably well as I do most about which I don't care. They say the prince has taken up 200,000*l.* to carry elections which he won't carry: he had much better have saved it to buy the parliament after it is chosen. A new set of peers are in embryo, to add more dignity to the silence of the House of Lords. I could tell you much election-news, none else; though not being thoroughly attentive to so important a subject, as to be sure one ought to be, I might now and then mistake, and give you a candidate for Durham in place of one for Southampton, or name the returning-officer instead of the candidate. In general, I believe it is much as usual—those sold in detail that afterwards will be sold in the representation—the ministers bribing Jacobites to choose friends of their own—the name of well-wishers to the present establishment, and patriots, outbidding ministers that they may make the better market of their own patriotism:—in short, all England, under some name or other, is just now to be bought and sold." Lord Orford's Works, 4to. vol. 5, p. 28.



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"My Lords and Gentlemen;

"After the examples of justice, which have been found necessary, I have with pleasure taken the very first opportunity of doing what is more agreeable to my own inclination, the passing an Act of Grace. The good effect I promise myself from hence is, to heal in some measure those wounds which have been made, and re-establish the quiet of the kingdom; since by this act the generality of those who have been deluded from their duty, will find themselves restored to security, and to the protection of those laws, which they had endeavoured to subvert. A just sense of this early mercy will, I hope, induce them to make such returns of loyalty and gratitude, as so strong an obligation requires.

"As this parliament would neecssarily determine, in a short time, and as nothing will give so much weight and credit to our affairs abroad in the present conjuncture, as to shew the dependence I have upon the affections of my people; I have judged it expedient speedily to call a new parliament. But I should think myself inexcusable if I parted with this, without publicly returning you my thanks for the many eminent instances you have given me of your inviolable fidelity, and attachment to my person and government, and your unshaken adherence to the true interest of your country, and the Protestant Succession in my family. By the Divine blessing, and your vigorous assistance, I have been enabled to crush and defeat the most audacious attempt that has ever been made to overturn the present establishment; and at the same time to furnish that support to our ancient and natural allies, which has already disappointed some of the most dangerous views of ambition, with which our enemies began the war. Such extraordinary merit, as it will always be gratefully remembered by me, must endear the memory of this parliament to posterity. From such demonstrations of the loyalty and affection of my faithful subjects, I do with the utmost satisfaction repose myself upon them; and do not in the least doubt of receiving new proofs of the same good disposition, in the choice of their representatives.

"I have nothing so much at heart, as the preservation of the civil and religious rights of my people, and the maintenance of the true greatness and prosperity of this nation. From these principles I will never deviate, and in these principles every true Briton will concur. Let this appear by your conduct in the present conjuncture; and let no false arts or misrepresentations take place to interrupt, or weaken that confidence and harmony between me and my people, which have been, and ever will be, productive of such happy effects."*

* "Many councils were at this time held at St. James's with regard to the state of affairs abroad, particularly those in Holland, where the party of the prince of Orange had now a great ascendency, and every thing seemed to co-operate towards a strict and hearty union between the States General and Great Britain, provided the States could have been assured of her steady perseverance in the same system of public councils, which it was pretended they could not, if the parliament continued to sit. As the government of England had now effected so thorough a comprehension of all parties, both without and within doors, they determined, by one bold stroke, to remove this objection, and to advise his majesty immediately to dissolve the parliament, and to leave the people to their choice of new representatives. This was certainly a very wise measure, as it tended to shew all Europe, that the government of England was not afraid to part even with a parliament that had so signally and successfully exerted itself in extinguishing a domestic rebellion, and in supporting, at an incredible expence, a foreign war. His majesty took the advice: on the 17th of June, he prorogued the parliament, and on the 18th it was dissolved."

"The elections all over Great Britain went on with unparalleled unanimity, and were attended with very few of their usual commotions. The landed interest appeared to be as strong as ever in the counties, but a sensible alteration was found with regard to many of the boroughs. The vast successes of the war, the prodigious prizes taken from the enemy, and the many great advantages Britain had acquired in point of trade, enriched the marine and mercantile gentlemen to such a degree, that numbers of them were enabled to aspire to seats in parliament, and were supported with a greater effusion of money, than ever had been known to be expended on such occasions. The minister, who was now generally looked upon to be Mr. Pelham, was unable to stop the current of corruption which ran in some places where he thought the elections were secure in favour of the government. He appeared, however, perfectly easy, and declared, on all occasions, that all parties were indifferent to him, provided they were in the interest of their country, which should be his only object; and if he exerted himself, it was in favour of those whom he personally esteemed, and who he thought would agree to the wise and moderate system he had laid down. In some places, the disaffected endeavoured to revive the influence that had operated so powerful in the latter part of sir Robert Walpole's administra-



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After which, the Lord Chancellor prorogued the Parliament, and the next day it was dissolved.

## FIRST SESSION OF THE TENTH PARLIAMENT OF GREAT BRITAIN.

*Meeting of the New Parliament.*] November 10, 1747. This day the New Parliament met at Westminster. The King being seated on the throne, adorned with his crown and regal ornaments; and attended by his officers of state; the prince of Wales, in his robes, sitting in his place on his majesty's right hand; the Lords being also in their robes; commanded the Gentleman Usher of the Black Rod to let the Commons know, It is his majesty's pleasure, that they attend him immediately, in this House.

Who being come; the Lord Chancellor said:

"My Lords, and Gentlemen,

"His majesty has been pleased to command me to acquaint you, that he doth not think fit to declare the causes of calling this parliament, till there shall be a Speaker of the House of Commons. It is therefore his majesty's pleasure, that you, gentlemen of the House of Commons, do immediately repair to the place where the Commons usually sit, and there choose a fit person to be your Speaker; and that you present the person who shall be so chosen, to his majesty here, for his royal approbation, on Thursday next, at two of the clock."

Then his majesty was pleased to retire; and the Commons withdrew.

tion, and at the last general election. But this spirit was now so very faint, that they who called themselves the independent electors of Westminster, and who had bestirred themselves so effectually at one time against the government, could not, in that city, which contains upwards of 14,000 voters, get more than 544 to vote for the two candidates they set up (who were both of them men of fortune and character) against lord Trentham and sir Peter Warren, who were the candidates recommended by the court. The spirit both of opposition and disaffection was found proportionably abated in all other places of the United Kingdom; so that it was easily foreseen the approaching parliament would be of the same temper with the last." Tindal.

*List of the House of Commons.*] The following is a List of the Members of the House of Commons:

### A List of the House of Commons in the Tenth Parliament of Great Britain, which met at Westminster, Nov. 10, 1747.

Bedfordshire. Sir Danvers Osborne; made governor of New York, a new writ, Nov. 16, 1753.—John earl of Upper Ossory.—Thomas Alston.

*Bedford.* Thomas Gore; commissary general of the musters.—John Offley.

Berkshire. Penyston Powney.—Henry Pye.

*Windsor.* Henry Fox.—Lord George Beauclerk; colonel of a regiment of foot at Gibraltar, and lieutenant governor of that garrison.

*Reading.* John Conyers.—Richard Nevil Aldworth; under secretary to the duke of Bedford, when principal secretary of state.

*Wallingford.* Joseph Townshend.—Richard Tonson.

*Abingdon.* John Morton.

Buckinghamshire. Sir William Stanhope.—Richard Lowndes.

*Buckingham.* Richard viscount Cobham; succeeded as earl Temple, and a new writ ordered, Jan. 12, 1753.—Temple West; a commodore in the navy.—George Grenville.

*Chipping Wycomb.* Edmund Waller.—Edm. Waller, jun.; master of St. Catherine's.

*Aylesbury.* William earl of Inchiquin.—Edward Willes.

*Agmondesham.* William Drake.——Sir Henry Marshall; died, a new writ ordered, Feb. 7, 1754.—Isaac Whittington.

*Wendover.* John Hampden; died, a new writ ordered, Feb. 18, 1754.—John Calvert.—Ralph earl Verney; died, a new writ ordered, Jan. 12, 1753.—Ralph earl Verney.

*Great Marlow.* William Ockenden; clerk of the council to Frederic prince of Wales.—Merrick Buller; Bank director.

Cambridgeshire. Soame Jenyns.——Philip Yorke; a teller of the Exchequer.

*Univ. of Cambridge.* Edward Finch.—Thomas Townshend; teller of the Exchequer.

*Town of Cambridge.* Thomas visc. Duplin; chairman of the committee of privileges and elections.—Samuel Shep-

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pard; died, a new writ ordered, April 29, 1748.—Christopher Jeaffreson; died, a new writ ordered, Jan. 24, 1749.—Charles Sloan Cadogan.

CHESHIRE. Charles Cholmondeley.—John Crew, jun.; died, a new writ ordered, Jan. 12, 1753.—Charles Crew.

*Chester.* Sir Robert Grosvenor.—Phil. Henry Warburton.

CORNWALL. Sir John Molesworth.—Sir Coventry Carew; died, a new writ ordered, April 6, 1748.—James Buller.

*Launceston.* Sir John St. Aubin.—Sir William Morice; died, a new writ ordered, Jan. 22, 1750.—Humphry Morice.

*Leskard.* Charles Trelawney; made assay master of tin in his majesty's duchy of Cornwall, and a new writ being ordered, June 21, 1751, he was re-elected.—Sir George Lee, L. L. D.; treasurer to the princess dowager of Wales, and a privy counsellor, dean of the arches, and judge of the prerogative court of Canterbury.

*Lestwithiel.* Richard Edgecumbe; son of the former.—James Edward Colleton.

*Truro.* John Boscawen; colonel in the first regiment of guards, and master of the horse to the duke.—Edward Boscawen; rear admiral of the white, and one of the elder brethren of the Trinity house, made a lord of the Admiralty; a new writ being ordered, June 18, 1751, he was re-elected.

*Bodmyn.* John Laroche; died, a new writ ordered, Jan. 12, 1753.—George Hunt; nephew to the earl of Radnor.—Sir William Irby; chamberlain to the princess of Wales.

*Helston.* Francis Godolphin.—John Evelyn; one of the grooms of the bedchamber to Frederic prince of Wales.

*Saltash.* Edward Boscawen; made his election for Truro.—Stamp Brooksbank; Bank director.—Thomas Corbet; died, a new writ ordered, May 3, 1751.—George B. Rodney; a commodore in the navy, afterwards lord Rodney.

*Camelford.* Ridgway earl of Londonderry.—Samuel Martin.

*Westlow.* John Frederick.—Wm. Noel; one of his majesty's counsel at law, made chief justice of Chester; and a new writ being ordered, Nov. 17, 1749, he was re-elected.

*Grampound.* Lord George Bentinck; colonel in the foot guards.—Thomas Hawkins.

*Eastlow.* John Buller.—Francis Gashry; South Sea director, made treasurer and paymaster of the ordnance; and a new writ being ordered, Dec. 17, 1751, he was re-elected.

*Penryn.* George Boscawen; colonel in the first regiment of foot guards, aid-de-camp to his majesty, and deputy governor of the islands of Scilly.—Henry Conway; colonel of a regiment of foot, made colonel of a regiment of dragoons.

*Tregony.* Claudius Aymiand; under secretary to the duke of Newcastle, one of the principal secretaries of state.—William Trevanion; made auditor of his majesty's duchy of Cornwall, and a new writ being ordered, June 18, 1751, he was re-elected.

*Bossiney.* Edward Wortley; made his election for Peterborough.—William Ord.—Richard Heath; died, a new writ ordered, Feb. 11, 1752.—Wm. Montagu.

*St. Ives.* John Bristowe.—John lord Hobart; made his election for Norwich.—John Plumptre; died, a new writ ordered, Nov. 25, 1751.—Samuel Stephens.

*Fowey.* Jonathan Rashleigh.—George Edgecumbe; captain of a man of war, and clerk of the council for the duchy of Lancaster.

*St. Germains.* Thomas Potter; son of the archbishop of Canterbury, and secretary to the princess of Wales.—Richard Eliot; died, a new writ ordered, Nov. 22, 1748.—Edward Eliot; made receiver general of his majesty's duchy of Cornwall; and a new writ being ordered, June 18, 1751, he was re-elected.

*St. Michael.* Albert Nesbit; died, a new writ ordered, Jan. 19, 1753.—Arnold Nesbit.—Thomas Clarke; one of his majesty's counsel at law.

*Newport.* Nicholas Herbert.—Thomas Bury.

*St. Mawes.* Robert Nugent; comptroller of the household to Frederic prince of Wales.—William lord Sundon; died, a new writ ordered, Jan. 12, 1753.—Sir Thomas Clavering.

*Callington.* Cha. Hor. Walpole.—Thomas Coplestone; died, a new writ ordered, April 6, 1748.—Edward Bacon.

*Cumberland.* Sir James Lowther.—Sir John Pennington.

*Carlisle.* Charles Howard.—John Stanwix.

*Cockermouth.* Sir Charles Wyndham; made his election for Taunton.—Wm. Finch.—John Mordaunt; made a brigadier general, and colonel of a regiment of dragoons.

DERBYSHIRE. William marquis of Hartington; called up to the House of Peers, as lord

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Cavendish of Hardwicke, and made master of the horse to his majesty; a new writ ordered, June 13, 1751.—Lord Fred. Cavendish; third son to the duke of Devonshire.—Sir Nathaniel Curzon.

*Derby.* William visc. Duncannon.—John Stanhope; made a lord of the Admiralty, and a new writ being ordered, March 2, 1748, he was re-elected, and died; a new writ ordered, Dec. 9, 1748.—Thomas Rivett.

DEVONSHIRE. Sir William Courtenay.—Sir Rich. W. Bamfylde.

*Exeter.* John Tuckfield.—Humphry Sydenham.

*Totness.* Sir John Strange; made master and keeper of the rolls in Chancery, and a new writ being ordered, Jan. 9, 1750, he was re-elected.—Charles Taylor; deputy remembrancer of the Court of Exchequer.

*Plymouth.* Arthur Stert.——Lord Vere Beauclerk; admiral of the blue, created lord Vere of Hanworth, Middlesex; a new writ ordered, March 29, 1750.—Charles Saunders; captain in the navy.

*Oakhampton.* Sir George Lyttelton.—Thomas Pitt; warden of the stannaries to Frederic prince of Wales, and steward of the duchy of Cornwall.

*Barnstaple.* Henry Rolle; created baron Rolle, a new writ ordered, January 11, 1748.—Sir Bourchier Wrey.—Thomas Benson.

*Plympton Earle.* Richard Edgecumbe; made his election for Lestwithiel.—Geo. Treby.—Geo. Edgecumbe; second son of lord Edgecumbe, made his election for Fowey.—William Baker; alderman of London.

*Honiton.* Sir W. Yonge.—John Heath Duke; changed his name to Duke in this parliament.

*Tavistock.* R. Leveson Gower; made his election for Litchfield.—Sir Richard Wrottesley; made one of the clerks comptrollers of his majesty's household, and a new writ being ordered, June 9, 1749, he was re-elected.—Thomas Brand.

*Ashburton.* John Harris.—John Arscot.

*Dartmouth.* John Jefferys.——Walter Cary.

*Bere Alston.* Sir F. Hen. Drake; ranger and keeper of his majesty's forest of Dartmore, made one of the clerks comptrollers of the household, and a new writ being ordered, Jan. 12, 1753, he was re-elected.——Sir W. M. Harbord; created a baronet in 1746.

*Tiverton.* Sir Wm. Yonge; made his election for Honiton.—Henry Conyngham; created lord Mountcharles in Ireland, Sept. 8, 1753.—Sir Dudley Ryder.

DORSETSHIRE. George Pitt.—George Chaffin.

*Poole.* Joseph Gulston.—George Trenchard.

*Dorchester.* John Brown; died, a new writ ordered, Jan. 17. 1751.—John Pitt; before in this parliament for Wareham.—Nathaniel Gundry; made a judge of the Court of Common Pleas, a new writ ordered, Jan. 17, 1751.—Geo. Damer; died, a new writ ordered, March 18, 1752.—George Clavell.

*Lyme Regis.* Hen. Holt Henley; died, a new writ ordered, May 13, 1748.—Robert Henley.—John Scrope; joint secretary to the Treasury, died, a new writ ordered, Jan. 12, 1753.—Thomas Fane.

*Weymouth and Melcombe Regis.* George Doddington.—Welbore Ellis; a lord of the Admiralty.—Edm. Hungate Beaghan.—Richard Plumer; died, a new writ ordered, Jan. 17, 1751.—Lord Geo. Cavendish.

*Bridport.* James Grenville; in this parliament before, for Old Sarum.—John Frederic Pinney.

*Shaftesbury.* Cuthbert Ellison.—George Pitt; made his election for the county.—William Beckford; alderman of London.

*Wareham.* Henry Drax.—Thomas Erle Drax; both voted not duly elected. Resolved, Jan. 19, 1748, That the right of election is only in the mayor and magistrates, and in such of the inhabitants as pay scot and lot, and in the freeholders of lands and tenements there, who have been, *bona fide*, to their own use, in the actual occupation, or in the receipt of the rents and profits of such lands or tenements, for the space of one whole year next before the election, except the same came to such freeholders by descent, devise, marriage-settlement, or promotion to some benefice in the church.—John Pitt; made steward and bailiff of the three Chiltern hundreds of Stoke, Desborough, and Bonenham, Bucks, and a new writ ordered, Jan. 17, 1751. He was re-elected for Dorchester.—Henry Drax.—R. Banks Hodgkinson.

*Corfe Castle.* John Bond.——Henry Banks.

DURHAM. George Bowes.—Henry Vane; made a lord of the Treasury, and a new writ being ordered, April 21, 1749, he was re-elected. Succeeded his father as lord Bernard; a new writ ordered, May 4, 1753.—Hon. Henry Vane; son

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of lord Bernard, in this parliament before, for Downton.

*Durham.* Henry Lambton.—John Tempest.

ESSEX. William Harvey.—Sir Robert Abdy; died, a new writ ordered, Nov. 29, 1748.—Sir John Abdy.

*Colchester.* Charles Gray.—Richard Savage Nassau.

*Malden.* Sir Richard Lloyd; one of his majesty's counsel at law.—Robert Colebrooke.

*Harwich.* John Phillipson; South Sea director.—Edward viscount Coke; died, a new writ ordered, Nov. 15, 1753.—Wenman Roberts; nephew to the earl of Leicester.

GLOUCESTERSHIRE. Thomas Chester.—Norborne Berkley.

*Gloucester.* John Selwyn; treasurer to George prince of Wales, died, a new writ ordered, Nov. 14, 1751.—Charles Barrow.—Benjamin Bathurst.

*Cirencester.* Thomas Master, jun.; died, a new writ ordered, May 31, 1749.—John Cox.—Henry Bathurst.

*Tewkesbury.* Thomas viscount Gage; steward of the household to Frederic prince of Wales.—Wm. Dowdeswell.

HEREFORDSHIRE. Edward lord Harley.—Velters Cornwall.

*Hereford.* Henry Cornewal; lieutenant general, and governor of Londonderry and Culmore Fort, Ireland.—Daniel Leighton.

*Leominster.* Sir Rob. Cornewall.—James Peachy.

*Weobly.* Mansell Powell; not duly elected.—John earl of Egmont.—Savage Mostyn; captain of a man of war, and an elder brother of the Trinity-house, made comptroller of the navy; and a new writ being ordered, March 21, 1749, he was re-elected.

HERTFORDSHIRE. Paggen Hale.——Charles Gore.

*St. Albans.* James West.—Sir Peter Thompson.

*Hertford.* George Harrison.—Nathaniel Brassey.

HUNTINGDONSHIRE. Coulson Fellows.—Edw. Wortley, jun.

*Huntingdon.* Kellond Courtenay; brother in law to the earl of Sandwich, died, a new writ ordered, March 3, 1748.—John Montagu; great grandson of Henry, the first earl of Manchester.—Edward Montagu.

KENT. Sir Roger Twisden.—Sir Edward Dering.

*Canterbury.* Mat. Robinson Morris.—Thomas Best.

*Rochester.* David Polhill; died, a new writ ordered, Jan. 21, 1754.—Nicholas Haddock.—Sir Chaloner Ogle; died, a new writ ordered, Jan. 17, 1751.—John Byng; vice admiral of the red.

*Maidstone.* W. H. Turner; died, a new writ ordered, April 19, 1753.—Gabriel Hanger.—Robert Fairfax.

*Queenborough.* Richard Evans.—Tho. Newnham.

LANCASHIRE. James lord Strange.—Richard Shuttleworth; died, a new writ ordered, Jan. 9, 1750.—Peter Bold.

*Preston.* James Shuttleworth.—Nicholas Fazakerley.

*Lancaster.* Francis Reynolds; clerk of the crown for the duchy of Lancaster.—Edward Marton; counsellor at law.

*Newton.* Peter Legh.—Sir Tho. Grey Egerton.

*Wigan.* Richard Clayton.——Richard Barry.

*Clithero.* Sir Nathaniel Curzon.—Nathaniel Curzon; made his election for the county of Derby.—Tho. Lister.

*Liverpool.* Thomas Salusbury.—Richard Gildart.

LEICESTERSHIRE. Edward Smith.—Wrightson Mundy.

*Leicester.* James Wigley.——George Wrighte.

LINCOLNSHIRE. Thomas Whichcote.—Robert Vyner.

*Lincoln.* Charles Monson.—Coningsby Sibthorpe.

*Boston.* Lord Vere Bertie.—John Michell.

*Great Grimsby.* John Gore; director of the South Sea Company in 1720.—William Locke.

*Stamford.* Brownlow lord Burleigh; made his election for the county of Rutland.—Robert Barbor.—John Proby, jun.; created lord Carysfort, in Ireland, Dec. 14, 1751.

*Grantham.* John marquis of Granby.—Sir John Cust; nephew to lord Tyrconnel, and clerk of the household to the prince of Wales.

MIDDLESEX. Sir W. Beauch. Proctor.—Sir Hugh Smithson; succeeded the duke of Somerset, as earl of Northumberland; a new writ ordered, Feb. 27, 1750.—George Cooke; prothonotary of the Court of Common Pleas.

*Westminster.* Sir Peter Warren; vice admiral of the red, died, a new writ ordered, Jan. 12, 1753.—Edward Cornwallis; colonel of a regiment of foot;

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before in this parliament for Eye.—Granville viscount Trentham; made a lord of the Admiralty, and a new writ being ordered, Nov. 16, 1749, he was re-elected. Sir Geo. Vandeput petitioned against him, but withdrew his petition. See an account of this very remarkable election in the London Magazine, 1751, page 291.

*London.* Sir John Barnard.—Sir William Calvert.—St. Theod. Janssen.—Slingsby Bethell.

MONMOUTHSHIRE. William Morgan.—Capel Hanbury.

*Monmouth.* Fulk Greville.

NORFOLK. George Townshend; colonel of a company in the first regiment of foot guards, and aid-de-camp to his majesty, both which he resigned in 1750.—Armine Wodehouse.

*Norwich.* John lord Hobart.—Horatio Walpole; created lord Walpole of Wolterton.

*Lynn-Regis.* Sir John Turner.—Horatio Walpole, jun.; son of Horatio Walpole.

*Yarmouth.* Charles Townshend; second son of viscount Townshend, made a commissioner of trade and plantations; and a new writ being ordered, June 9, 1749, he was re-elected.—Edward Walpole.

*Thetford.* Lord Henry Beauclerk.—C. Fitzroy Scudamore; changed his name to Scudamore, on his marriage with Frances Scudamore (only child and heiress to sir James Scudamore of Home Lacy, in the county of Hereford, bart. and viscount Scudamore, in the kingdom of Ireland) late duchess of Beaufort.

*Castle-Rising.* Thomas Howard.—Robert lord Luxborough.

NORTHAMPTONSHIRE. Sir Edmund Isham.—Thomas Cartwright; died, a new writ ordered, March 15, 1748.—Valentine Knightley.

*Peterborough.* Edward Wortley.—Matthew Lamb.

*Northampton.* George Compton.—Geo. Montagu.

*Brackley.* Richard Lyttelton.—Sewallis Shirley.

*Higham-Ferrers.* John Hill; governor of Scarborough castle; died, a new writ ordered, Nov. 15, 1753.—Joseph Yorke; son of lord Hardwicke, colonel of a regiment of foot.

NORTHUMBERLAND. John Fenwick; died, a new writ ordered, Jan. 11, 1748.—Ch. lord Ossulston; son of the earl of Tankerville, waved his return, upon the petition of Mr. Allgood.—Lancelot Allgood.—Sir William Middleton.

*Newcastle upon Tyne.* Sir Walter Blacket.—Matthew Ridley.

*Morpeth.* Robert Ord.—James viscount Limerick.

*Berwick upon Tweed.* W. Wildman viscount Barrington.—Thomas Watson.

NOTTINGHAMSHIRE. Lord Robert Sutton; second son to the duke of Rutland, and grandson and heir to Robert Sutton lord Lexington.—John Thornhagh.

*Nottingham.* George viscount Howe; colonel of a company in the first regiment of foot guards, and aid-de-camp to the duke.—Sir Charles Sedley.

*East Retford.* John White.—Wm. Mellish; made a commissioner of the excise, a new writ ordered, Dec. 18, 1751.—John Shelley.

*Newark.* Lord William Manners.—Job Staunton Charlton; made clerk of the deliveries in the office of ordnance, and a new writ being ordered, March 22, 1751, he was re-elected.

OXFORDSHIRE. Sir James Dashwood.—Norris Bertie.

*Oxford University.* Peregrine Palmer.—Henry viscount Cornbury; called up to the House of Peers, as baron Hyde of Hindon, a new writ ordered, Jan. 23, 1751.—Sir Roger Newdigate.

*Oxford.* Philip Herbert; died, a new writ ordered, Nov. 16, 1749.—Philip viscount Wenman; of the kingdom of Ireland.—Thomas Rowney.

*Woodstock.* John Trevor; a Welch judge, and one of his majesty's counsel at law, succeeded his brother as lord Trevor; a new writ ordered, March 26, 1753.—Anthony Keck.—John viscount Bateman; of the kingdom of Ireland.

*Banbury.* John Willes; filazer of the Court of Common Pleas for London and Middlesex.

RUTLANDSHIRE. James Noel; brother to the late earl of Gainsborough, died, a new writ ordered, Jan. 11, 1753.—Thomas Noel.—Brownlow lord Burleigh; son of the earl of Exeter.

SALOP. Sir John Astley.—Richard Lyster.

*Shrewsbury.* William Kynaston; master in Chancery, died, a new writ ordered, March 2, 1749.—Thomas Hill.—Sir Richard Corbet.

*Bridgenorth.* Sir Tho. Whitmore.—Arthur Weaver.

*Ludlow.* Richard Herbert.—Sir William Corbet; made clerk of the pipe, and a new writ being ordered, May 12, 1748, he was re-elected, and died; a new writ

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ordered, Nov. 29, 1748.—Henry Bridgman.

*Great Wenlock.* Brooke Forrester.—Isaac Hawkins Brown.

*Bishop's Castle.* Samuel Child; died, a new writ ordered, Jan. 11, 1753.—J. Dashwood King; brother to sir Francis Dashwood, bart. and nephew to Dr. King, late master of the Charter-house.—John Robinson Lytton.

SOMERSETSHIRE. Thomas Prowse.—Sir Cha. Kemeys Tynte.

*Bristol.* Robert Hoblyn.—Edw. Southwell.

*Bath.* Robert Henley; recorder of Bath, made one of his majesty's counsel at law, and a new writ being ordered, Nov. 14, 1751, he was re-elected.—George Wade; died, a new writ ordered, March 16, 1748.—Sir John Ligonier; general of horse, lieutenant general of the ordnance, colonel of the second regiment of dragoon guards, and governor of the island of Guernsey, now colonel of the royal regiment of horse-guards blue.

*Wells.* Francis Gwyn.—George Hamilton; uncle to the earl of Abercorn.

*Taunton.* Robert Webb.—Sir Charles Wyndham; succeeded the duke of Somerset as earl of Egremont, a new writ ordered, Feb. 19, 1750.—William Rowley; admiral of the white and rear admiral of Great Britain, made a lord of the Admiralty, and a new writ being ordered, June 18, 1751, he was re-elected.

*Bridgewater.* G. B. Doddington; treasurer of the chamber to Frederic prince of Wales.—Peregrine Powlett; died, a new writ ordered, Jan. 11, 1753.—Robert Balch.

*Minehead.* Cha. Whitworth.—P. Wyndham Obrien.

*Ilchester.* Thomas Lockyer.—Francis Fane; a commissioner of trade and plantations, and chairman of the committee of supply.

*Milborn Port.* Michael Harvey.—T. Medlycott.—Jeffery French.—Charles Churchill; deputy ranger of St. James's and Hyde parks.—Double return; the two former not duly returned, but they petitioned, and Mr. Harvey died. Mr. French renewed his petition in sess. 2, and the sitting members were voted duly elected.

SOUTHAMPTON. Lord Harry Powlett; lieutenant governor of the Tower.—Francis Whithed; died, a new writ ordered, April 16, 1751.—Alex. Thistlethwayte; brother to Mr. Whithed, who changed his name to Thistlethwayte from Whithed.

*Winchester.* Henry Penton.—George Bridges; died, a new writ ordered, May 17, 1751.—Powlett St. John.

*Southampton.* Peter Delmé.—Ant. Langley Swymmer.

*Portsmouth.* Isaac Townshend; admiral of the blue.—Thomas Gore; made his election for Bedford.—Edward Legge; commodore of a squadron in the West Indies, dead at the time of the election, which was declared void.—Sir Edward Hawke; vice admiral of the blue.

*Yarmouth.* Thomas Holmes.—Henry Holmes; colonel of a regiment of foot, called the Young Buffs.

*Petersfield.* John Jolliffe; receiver general of the duchy of Lancaster.—Wm. Conolly; privy counsellor in Ireland, and cursitor in Chancery there, died, a new writ ordered, Jan. 22, 1754.—Wm. Gerard Hamilton.

*Newport.* Bluett Wallop; a captain in the army, died, a new writ ordered, June 13, 1749.—Ralph Jenison; master of his majesty's buck-hounds.—Tho. Lee Dummer; clerk of the great wardrobe.

*Stockbridge.* Daniel Boone; groom of the bedchamber to Frederic prince of Wales.—Wm. Chetwynd, jun.

*Newton.* Sir John Barrington.—Maurice Bockland; colonel of a regiment of foot.

*Christ-Church.* Edward Hooper, jun.; made a commissioner of the customs, a new writ ordered, Dec. 22, 1748.—Sir T. Robinson; made master of the great wardrobe, and a privy counsellor, and a new writ being ordered, Dec. 15, 1749, he was re-elected.—Sir C. Arm. Powlett; colonel of a regiment of foot, lieutenant governor of the isle of Wight, and a major general, died, a new writ ordered, Nov. 18, 1751.—Harry Powlett.

*Lymington.* Harry Burrard.—Charles Powlett; lieutenant colonel, and one of the grooms of the bedchamber to Frederic prince of Wales.

*Whitchurch.* John Selwyn, jun.; groom of the bedchamber to George prince of Wales, died, a new writ ordered, Nov. 14, 1751.—Lord Robert Bertie; colonel in the foot guards, and lord of the bedchamber to George prince of Wales.—Charles Wallop.

*Andover.* John Pollen.—John visc. Lymington; died, a new writ ordered, Nov. 21, 1749.—John Whitwell Griffin; colonel in the foot guards.

STAFFORDSHIRE. Sir Walt. Wag. Bagot.—Wm. Levison Gower.

*Litchfield.* Rich. Lev. Gower; under secretary of state to the duke of Bedford's office.—Thomas Anson; elder brother to lord Anson.

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*Stafford.* John Robins; counsellor at law.—Wm. Chetwynd.

*Newcastle-under-Line.* Bapt. Lev. Gower.—Thomas viscount Parker.

*Tamworth.* Sir Henry Harpur; died, new writs ordered, Nov. 29, 1748.—Sir Robert Burdett.—Thomas Villiers; made a lord of the Admiralty; and new writs being ordered, Dec. 19, 1748, he was re-elected.

SUFFOLK. Sir Cordell Firebrace.—John Affleck.

*Ipswich.* Samuel Kent.—Edward Vernon; one of the elder brethren of the Trinity-house

*Dunwich.* Sir Geo. Downing; died, a new writ ordered, June 13, 1749.—Sir Jac. Gar. Downing.—Miles Barne.

*Orford.* John Waldegrave; first major of the third regiment of foot guards.—Henry Legge; made treasurer of the navy, and a new writ being ordered, April 28, 1749, he was re-elected.

*Aldborough.* Zac. Phil. Fonnereau; East India director.—Wm. Wynd. Ashe; comptroller of the household to the duke.

*Sudbury.* Richard Rigby.—Tho. Fonnereau.

*Eye.* Edward Cornwallis; colonel of a regiment of foot, made governor of Placentia in Newfoundland, and captain general and governor-in-chief in, and over, his majesty's province of Nova Scotia, or Acadia, in America; a new writ ordered, April 28, 1749. He was afterwards chosen for Westminster.—Courthope Clayton; equerry to his majesty, and major of the first troop of horse grenadier guards.—Roger Townshend; made receiver general and cashier of his majesty's customs; a new writ ordered Feb. 9, 1748.—Nicholas Hardinge; attorney-general to the duke of Cumberland, and joint secretary to the treasury, late clerk of the Honourable House of Commons.

*St. Edmund's Bury.* Wm. visc. Petersham; colonel of the second troop of grenadier guards, made customer and collector of the ports of Dublin, Skerris, Malahide, and Wicklow; and a new writ being ordered, May 12, 1748, he was re-elected.—Felton Hervey; groom of the bedchamber to the duke.

SURRY. Charles lord Baltimore; died, a new writ ordered, April 30, 1751.—Thomas Bugden.—Arthur Onslow.

*Southwark.* Alexander Hume.—William Belchier.

*Blechingley.* Sir Kenrick Clayton.—William Clayton.

*Ryegate.* Philip Yorke; made his election for the county of Cambridge.—Charles Yorke; one of the clerks of the crown in chancery, and counsellor at law.—Charles Cocks; clerk of the patents in chancery.

*Guilford.* Sir John Elwill.—Richard Onslow; lieutenant general, and colonel of the first troop of grenadier guards.

*Gatton.* George Newland; died, a new writ ordered, Nov. 16, 1749.—Charles Knowles; rear-admiral of the red, made governor of Jamaica; a new writ ordered, March 26, 1752.—William Bateman.—Paul Humfrey; died, a new writ ordered, April 22, 1751.—James Colebrooke.

*Haslemere.* James Oglethorpe.—Peter Burrel.

SUSSEX. John Butler.—Henry Pelham; died in March 1754, but no new writ was ordered.

*Chichester.* George viscount Bury; colonel of a regiment of foot, and aid-de-camp and gentleman of the bedchamber to the duke.—John Page.

*Horsham.* Charles Ingram; colonel in the foot guards; died, a new writ ordered, Dec. 9, 1748.—Sir Lio. Pilkington; a baronet of Nova Scotia.—Chas. Ingram, jun.

*Midhurst.* Sir Thomas Bootle; chancellor to the prince of Wales, one of his majesty's counsel at law, and attorney general for the county palatine of Durham.—John Sarjent; died, a new writ ordered, January 14, 1754.—Sir John Peachey.

*Lewes.* Sir Francis Poole; deputy paymaster of the forces in Minorca.—Thos. Sergison.

*Shoreham.* Robert Bristowe.—Charles Frederick; made surveyor general of his majesty's ordnance, and assistant to the lieutenant general of the ordnance; and a new writ being ordered, April 5, 1750, he was re-elected.

*Bramber.* Joseph Damer; one of the directors of the East India Company, and gentleman of the privy chamber to his majesty: died, a new writ ordered, Nov. 14, 1751.—Harry Gough; created lord Milton in Ireland, May 3, 1753.—Henry Pelham.

*Steyning* Abraham Hume.—Hitch Younge; one of the gentlemen of his majesty's privy chamber.

*East Grinsted.* Syd. Staf. Smythe; made a baron of the exchequer; a new writ ordered, Jan. 17, 1751.—Joseph Yorke; purse-bearer to the lord chancellor, a colonel in the army, aid-de-camp to his majesty, and minister plenipotentiary to the states of Holland.—Sir Whistler Webster.

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*Arundel.* Garton Orme; gentleman waiter to Frederick prince of Wales, and gentleman usher to the princess of Wales.—Theobald Taaffe.

WARWICKSHIRE. Sir Charles Mordaunt.—William Craven.

*Coventry.* Wm. visc. Petersham; made his election for Bury.—Samuel Greathead.—William Grove.

*Warwick.* Wills earl of Hillsborough; created earl of Hillsborough, in Ireland, in this parliament.—Hen. Archer; one of the trustees for Georgia.

WESTMORELAND. John Dalston.—Ed. Wilson.

*Appleby.* Sir John Ramsden.—Randal Wilbraham; counsellor at law.

WILTSHIRE. Sir Robert Long.—Edward Popham.

*New Sarum.* William Bouverie.—Edw. Poore; made justice of Carmarthen, Pembroke, and Cardigan; and a new writ being ordered, March 31, 1753, he was re-elected.

*Wilton.* Robert Herbert; made surveyor-general of his majesty's land-revenue; and a new writ being ordered, Dec. 19, 1751, he was re-elected.—William Herbert; colonel of a regiment of foot, afterwards colonel of the queen's regiment of dragoon guards.

*Downton.* George Lyttleton; made his election for Oakhampton.—Richard Temple; died, a new writ ordered, Nov. 16, 1749.—Henry Vane, jun.; colonel in the first regiment of foot guards, made steward and bailiff of the three chiltern hundreds of Stoke, Desborough, and Boneuham, in the county of Bucks; a new writ ordered, May 4, 1753. He was re-chosen for the county of Durham.—James Hayes.—George Proctor, steward and court-keeper of all the lordships, lands, &c. belonging to Windsor castle; died, a new writ ordered, April 16, 1751.—Tho. Duncombe.

*Hindon.* Blisse Richards.—Valens Comyn; died, a new writ ordered, April 29, 1751.—Fra. Blake Delaval, jun.

*Heytesbury.* William Ashe; died, a new writ ordered, Jan. 17, 1751.—William A'court; lieut. colonel in the army.—Pierce A'court Ashe.

*Westbury.* John Bance.—Paul Methuen; both not duly elected.—Chaun. Townshend.—Matth. Michell, captain in the navy; died, a new writ ordered, Jan. 11, 1753.—Peregrine Bertie.

*Calne.* William Northey.—Wm. Elliot.

*Devizes.* William Willy; East India director.—John Garth.

*Chippenham.* Sir Edm. Thomas; groom of the bedchamber to Frederick prince of Wales.—Edward Bayntun Rolt; made surveyor-general of his majesty's duchy of Cornwall; and a new writ being ordered, June 18, 1751, he was re-elected.

*Malmsbury.* John Lee.—James Douglas; clerk of the household to Frederick prince of Wales; died, a new writ ordered, June 6, 1751.—Edward lord Digby; groom of the bedchamber to George prince of Wales, which he resigned upon succeeding his grandfather as lord Digby in Ireland.

*Cricklade.* John Gore; lieut. col. in the third regt. of foot guards.—William Rawlinson Earle.

*Great Bedwin.* Sir Ed. Turner.—Will. Sloper.—William Scott; equerry to Frederick prince of Wales.—Lascelles Metcalfe. Double return; sir Edward Turner and Mr. Scott not duly elected.

*Ludgershall.* Geo. Augus. Selwyn; surveyor of his majesty's mint, made chief clerk, register, and sole examiner of the court of chancery in Barbadoes, and clerk of the crown and peace there; and a new writ being ordered, Jan. 11, 1753, he was re-elected.—Thomas Farrington.

*Old Sarum.* Thomas Pitt; made his election for Oakhampton.—Charles earl of Middlesex; master of the horse to Frederick prince of Wales.—Arthur visc. Doneraile; lord of the bedchamber to Frederick prince of Wales; died, a new writ ordered, Jan. 18, 1751.—Paul Jodrel; solicitor-general to Frederick prince of Wales; died, a new writ ordered, Nov. 14, 1751.—Simon Fanshaw.

*Wootton Basset.* Martin Madan; groom of the bedchamber to Frederick prince of Wales.—Robert Neale.

*Marlborough.* Sir J. Hynde Cotton; died, a new writ ordered, Feb. 11, 1752.—Sir J. Hynde Cotton.—John Talbot, jun.

WORCESTERSHIRE. Edmund Pytts; died, a new writ ordered, Dec. 4, 1753.—Edmund Pytts; son to the former.—Geo. W. visc. Deerhurst; succeeded his father as earl of Coventry; a new writ ordered, March 22, 1751.—J. Bulkeley Coventry; brother to the earl of Coventry.

*Worcester.* Thomas Vernon.—Thomas Geers Winford, not duly elected. Resolved, Feb. 11, 1748, that the right of election is in the citizens not receiving alms, and admitted to their freedom by birth or servitude, or by redemption, in order to trade within the city; on which the sitting member declined giving the



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House any farther trouble.—Robert Tracy.

*Droitwich.* Thomas Foley, jun.—Francis Winnington.—Samuel Masham; all three returned, and the petitioner Edwin Sandys, and Mr. Winnington, voted duly elected.—Edwyn Sandys.

*Evesham.* Edward Rudge.—Sir John Rushout.

*Bewdley.* William Bowles; died, a new writ ordered, Nov. 29, 1748.—William Lyttelton.

YORKSHIRE. Sir Conyers D'Arcy; comptroller of his majesty's household.—Sir Myles Stapylton; made a commissioner of the customs; a new writ ordered, April 7, 1750.—Henry visc. Down; a lord of the bedchamber to George prince of Wales.

*York.* George Fox Lane; changed his name to Lane in this parliament.—William Thornton.

*Kingston-upon-Hull.* Lord Robert Manners; brother to the duke of Rutland, aid-de-camp to his majesty, colonel of a regiment of foot, and lieutenant-governor of Hull castle.—Thomas Carter.

*Knaresborough.* Sir Henry Slingsby.—Richard Arundel; made clerk of the pipe; and a new writ being ordered, Dec. 1, 1748, he was re-elected.

*Scarborough.* Edwin Lascelles.—Roger Handasyde; a lieutenant general, and colonel of a regiment of foot.

*Rippon.* Wm. Aislabie.—Sir Charles Vernon.

*Richmond.* John York.—Sir Conyers D'Arcy; made his election for the county.—Wm. earl of Ancram; son of the marquis of Lothian, colonel of a regiment of foot, and lord of the bedchamber to the duke.

*Heydon.* Sir John Saville; created lord Pollington in Ireland, Sept. 8, 1753.—Luke Robinson; counsellor at law.

*Borough-Bridge.* Wm. Murray.—Francis earl of Dalkeith; died, a new writ ordered, April 11, 1750.—Lewis Mon. Watson.

*Malton.* John Mostyn.—Henry Finch.

*Thirsk.* Tho. Frankland.—Fred. Frankland; made a commissioner of the revenue in Ireland, a new writ ordered, March 23, 1749.—Wm. viscount Galway; before in this parliament for Pontefract, succeeded his father as viscount Galway in 1751.

*Aldborough.* Na. Newnham, jun.; East India director.—Andrew Wilkinson.

*Beverley.* Charles Pelham.—Sir Wm. Codrington.

*Northallerton.* Henry Peirse.—Henry Lascelles; made chief steward and keeper of the courts of the honour of Berkhamstead, and of the manor, lordship, and town of Berkhamstead, in the counties of Hertford, Bucks, and Northampton, parcel of the lands and possessions of the duchy of Cornwall; and a new writ ordered, March 17, 1752.—Daniel Lascelles.

*Pontefract.* Geo. Moreton Pitt.—Wm. Monckton; made receiver general of his majesty's crown and fee-farm rents in six northern counties, and a new writ ordered, Dec. 22, 1748; he was afterwards elected for Thirsk.—John visc. Galway; died, a new writ ordered, Nov. 14, 1751.—Robert Monckton; lieutenant colonel of a regiment of foot.

## CINQUE PORTS.

*Hastings.* James Pelham.—And. Stone; made a commissioner for trade and plantations, and a new writ being ordered, Dec. 15, 1749, he was re-elected.

*Dover.* Lord George Sackville; colonel of a regiment of carabineers in Ireland, and secretary to the lord lieutenant.—Tho. Revell; died, a new writ ordered, Jan. 31, 1752.—Wm. Cayley.

*Sandwich.* John Cleveland; joint secretary to the Admiralty.—Sir George Oxenden.

*Hythe.* Sir Thomas Hales; clerk of the board of green cloth, and deputy lieutenant of Dover Castle.—Wm. Glanville.

*New Romney.* Sir Francis Dashwood.—Henry Furnese.

*Rye.* Sir John Norris; died, a new writ ordered, Dec. 5, 1749.—Tho. Pelham.—Phillips Gybbon.

*Winchelsea.* John Mordaunt; a lieutenant colonel.—Tho. Orby Hunter.

*Seaford.* Wm. Pitt; paymaster general of his majesty's forces.—Wm. Haye.

## WALES.

ANGLESEY. Sir Nicholas Bayley.

*Beaumaris.* James visc. Bulkeley; died, a new writ ordered, Jan. 11, 1753.—John Owen.

BRECONSHIRE. Tho. Morgan; advocate general of the king's forces.

*Brecon.* John Talbot.

CARDIGANSHIRE. John Lloyd; attorney general for the counties of Carmarthen, Pembroke, and Cardigan.

*Cardigan.* John Symmons.

CARMARTHENSHIRE. John Vaughan.

*Carmarthen.* Thomas Matthews; one of the elder brethren of the Trinity-house,

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late admiral; died, a new writ ordered, Nov. 14, 1751.—Griffith Philips.

CARNARVONSHIRE. Wm. Bodvelle.

*Carnarvon.* Sir Thomas Wynne; died, a new writ ordered, April 20, 1749.—Sir Wm. Wynne.

DENBIGHSHIRE. Sir Wat. W. Wynn; died, a new writ ordered, Nov. 16, 1749.—Sir Lynch Sal. Cotton.

*Denbigh.* Rich. Middleton; lord lieutenant and cust. rot. of this county, and recorder of this borough, made steward of the lordships and manors of Bromfield and Yale, in the county of Denbigh, and a new writ being ordered, Dec. 18, 1749, he was re-elected.

FLINTSHIRE. Sir Thomas Mostyn.

*Flint.* Kyffin Williams; died, a new writ ordered, Nov. 15, 1753.—Sir John Glynn.

GLAMORGANSHIRE. Charles Edwin.

*Cardiff.* Herbert Mackworth.

MERIONETHSHIRE. Wm. Vaughan; lord lieutenant of this county.

MONTGOMERYSHIRE. Edward Kynaston.

*Montgomery.* Henry Herbert; died, a new writ ordered, April 7, 1748.—Wm. Herbert.

PEMBROKESHIRE. Wm. Owen.

*Pembroke.* Wm. Owen; made his election for the county.—Hugh Barlow.

*Haverford West.* Wm. Edwards.

RADNORSHIRE. Sir Hum. Howarth.

*Radnor.* Thomas Lewis.

## SCOTLAND.

SHIRES OF

*Aberdeen.* Andrew Mitchell.

*Ayr.* Patrick Crawford.

*Argyle.* Sir Duncan Campbell.

*Banff.* Ja. Abercrombie.

*Berwick.* A. Hume Campbell; solicitor general to the prince, and king's council.

*Bute.* Ja. Stu. Mackenzie; brother to the earl of Bute.

*Clackmannan.* Thomas Ereskine; son of the late earl of Marr.

*Cromarty.* John Campbell; a lord of the Treasury.

*Dumfries.* Lord Charles Douglas.

*Dunbarton.* John Campbell; lieutenant general, colonel of a regiment of foot, and governor of Milford-haven.

*Edinburgh.* Sir Charles Gilmour; died, a new writ ordered, Jan. 25, 1751.—Robert Balfour.

*Elgin.* Sir Ludovick Grant.

*Fife.* James Oswald; made a commissioner of trade, and a new writ being ordered, Dec. 18, 1751, he was re-elected.

*Forfar.* Wm. earl of Panmure; colonel of a regiment of foot.

*Haddington.* Sir Hugh Dalrymple.

*Invernes.* Norman M'Leod.

*Kincardine.* Sir James Carnegie.

*Kirkcudbright.* John Mackye.

*Lanark.* Sir James Hamilton; died, a new writ ordered, April 10, 1750.—Patrick Stuart.

*Linlithgow.* Charles Hope Weir; governor of Blackness castle.

*Orkney.* James Halyburton.

*Peebles.* John Dixon, jun.

*Perth.* Lord John Murray; colonel of a highland regiment.

*Renfrew.* Wm. Muir.

*Ross.* Kenneth Mackenzie; son of the earl of Seaforth, attainted in 1716, called lord Fortrose.

*Roxburgh.* Walter Scott.

*Selkirk.* John Murray.

*Stirling.* Capt. Ja. Campbell, jun.

*Sutherland.* Capt. George Mackay.

*Wigton.* John Stuart; made clerk of the pipe of his majesty's Exchequer in Scotland, and a new writ being ordered, June 21, 1751, he was re-elected.

*Edinburgh City.* James Ker; convener of trades.

BOROUGHS OF

*Kirkwall, &c.* Sir Harry Monro.

*Inverness, &c.* Alexander Brodie; lord Lyon king at arms.

*Elgin, &c.* Wm. Grant; lord advocate of Scotland.

*Aberdeen, &c.* John Maule; made a baron of the Exchequer in Scotland, a new writ ordered, May 13, 1748.—Charles Maitland; died, a new writ ordered, Feb. 25, 1751.—David Scott.

*Forfar, &c.* Capt. Thomas Leslie; barrack master general of Scotland, brother to the earl of Rothes.

*Crail, &c.* L. Gen. Ph. Anstruther; colonel of a regiment of foot.

*Dysart, &c.* Lt. Gen. James Sinclair; colonel of a regiment of foot.

*Inverkeithing, &c.* George Haldane; colonel of a company in the third regiment of foot guards.

*Glasgow, &c.* Lt. Col. John Campbell.

*Selkirk, &c.* Lawrence Dundas; not duly elected.—James Carmichael.

*Haddington, &c.* Andrew Fletcher, jun.; secretary to the duke of Argyle, as

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keeper of the great seal of Scotland, made auditor of the Exchequer in Scotland, and a new writ being ordered, March 5, 1751, he was re-elected.

*Dumfries, &c.* Sir James Johnston.

*Wigton, &c.* James Stuart; lieut. col. of the third regiment of foot guards.

*Ayr, &c.* Charles Erskine; died, a new writ ordered, Nov. 29, 1749.—Sir Hen. Erskine; lieut. colonel in the army.

SIXTEEN PEERS OF SCOTLAND.

Duke of Gordon; died in 1752.
(Lord Cathcart in his room.)
Argyle.
Marq. of Tweedale.
Lothian.
Earl of Crawford; died in 1749.
(E. of Marchmont in his room.)
Rothes.
Morton.
Moray.
Home.
Lauderdale.
Loudoun.
Findlater.
Leven and Melville.
Aberdeen.
Dunmore; died in 1752.
(E. of Breadalbane in his room.)
Hyndford.

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*Mr. Arthur Onslow re-chosen Speaker.*] The Commons being returned to their House,*

The Marquis of *Hartington*, son and heir apparent of the duke of Devonshire, addressing himself to the Clerk, (who, standing up, pointed to him, and then sat down) spake to the effect following:

Mr. Hardinge;

His majesty having just now, at the House of Peers, notified to us his pleasure that we should proceed to the choice of a Speaker, I hope I shall not be thought impertinent, if I presume to offer my thoughts upon this occasion: and as I am sensible of what great consequence it is, to chuse a proper person to sit in that chair, I should think myself very unpardonable, if I presumed to offer any one to this assembly, for their approbation, that I was not convinced was thoroughly capable in every respect: but what emboldens me the more, is, that I flatter myself that the person that I shall propose, is one that nobody can have the least objection to. The choice of a Speaker has at all times been looked upon as an affair of the greatest importance; but give me leave to say, if ever there was a time that it was more particularly so, it is the present, when the affairs of this country are in so critical, nay, I am afraid, so dangerous a situation, that not only the fate and liberty of this island, but that of Europe in general, may depend upon the result of our deliberations; at such a time, surely, we cannot be too cautious who we chuse to preside over us.

The difficulties that attend an office of this nature, are great; and the qualifications that are necessary to support the character, many: and though I see a great many persons in this House, whose distinguished abilities and reputation make them equal to any undertaking, yet I hope they will pardon the preference I shall give. It is not the greatest abilities, and the greatest integrity, that are alone sufficient; the greatest experience and knowledge in the laws and customs of parliament, are indispensably necessary: temper and judgment to discern what is right, and resolution at all times to enforce it; to watch over, to guard, and to protect the liberties and privileges of the Commons of England; to maintain their interests, and to preserve order and decency in all their proceedings, is no easy task: but the greater the difficulties, the greater is our good fortune, that past experience, through a series of twenty years, points out to us where to apply; it shews us an hon. member of this House, that has sat in that chair, and made three successive parliaments appear in their true splendor, by maintaining the honour and dignity of the Commons of Great Britain, and uniformity in the customs and usage of parliament; and with how much honour to himself, is needless for me to say: the world is already convinced of that; and the Journals of this House will shew it in a better manner than I can express. To give the hon. gentleman the praises that are due to him, would to me, I am sure, be a very grateful task; and nothing but knowing him so well, and the apprehensions of offending him, should prevent me from doing that justice to his merit which is universally allowed: thus far, I hope he will give me leave to say, that I shall always esteem it as a peculiar felicity to have had the honour of proposing Mr. Onslow for Speaker to this House of Commons. It is needless in me to take up any more of your time, as I am persuaded the gentleman's own character will add more weight to my motion, than any thing that I can say to enforce it; and therefore I

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* From the Commons' Journals.

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move, "That the right hon. Arthur Onslow, esq. be desired to take the chair, as Speaker."

Then the Hon. *Philip Yorke*, son and heir apparent of lord Hardwicke, addressing himself likewise to the Clerk (who standing up, pointed to him, and then sat down), spake to the effect following:

Mr. Hardinge;

Though I am persuaded the question moved by the noble lord will meet with an universal approbation; and that no gentleman, who reflects one moment on the importance of this day's choice to our future deliberations, and on the great fidelity and eminent ability with which Mr. Onslow hath so often filled that chair, but must give his voice, with the utmost readiness, to the placing him again in it; yet I trust, the House will excuse me, if, in compliance with their forms, I take this opportunity of expressing my esteem and attachment for that very worthy and respectable person, and my zealous concurrence in any proposition that tends to his honour.

On former occasions of this nature, we all know, Sir, that the usual variety of sentiments hath appeared amongst us: but it is peculiar to Mr. Onslow, and the happy result of his conduct and character, that ever since that important trust was conferred on him, we have all united to continue it in his hands; and, if from the opinion of former parliaments, that of the present may be judged of, we shall now be ready and desirous to give him this proof of our regard and confidence, with as general an assent as before. Indeed, what wonder is it, Sir, that, where merit and capacity are so conspicuous and so beneficial, they should be universally acknowledged; and that a concern for our own and the public service, should suggest to us to resort again to that person, by whom we have experienced, that our difficulties receive light and information; our privileges, strength and support; and the whole course of our proceedings, dignity and honour? By whom we have constantly seen any unseasonable heats tempered or suppressed with an authority, which nothing but an universal opinion of his prudence and impartiality can give; and who, at the same time, with a humane and instructive condescension, is ever willing to encourage the diffidence, and assist the attempts, of inexperienced merit.

But, whilst I enlarge on a subject pleasing to every one else, I fear the giving pain to Mr. Onslow himself; and shall only add, that his family, his connections, his wise and honourable behaviour in public life, must recommend him, in the most advantageous manner, to a House of Commons, constituted as this is, who would not do justice to their principles and good intentions, by placing any other at their head, as long as he has a seat amongst them.

I should, perhaps, not be surprised, though it would give me infinite concern, if the hon. member himself should express an unwillingness to accept a laborious and fatiguing employment, to which he has for a long course of years devoted his time and his abilities; but I flatter myself, that his disinterested loyalty and affection to his majesty and his country, and the constant and zealous regard he has ever shewn to the service and sense of this House, will overcome any reluctance that may arise in his own breast: very sure I am, that in so full a meeting there can be no negative but Mr. Onslow's to this motion, which I most heartily second.

Then the right hon. *Henry*, lord viscount *Cornbury*, son and heir-apparent of the earl of Clarendon and Rochester, addressing himself likewise to the clerk (who, standing up, pointed to him, and then sat down), spake to the following effect:

From the particular, as well as the public regard which I owe to that gentleman who is now called upon to preside in this assembly, from the value which I know him to be of in private, as well as in public life, I should be very unwilling to give my consent to this motion, which has been so well introduced, if I knew any other person equal to succeed him in taking up this burthen of state, which he has certainly, for his own sake, already sustained too long: and it is this opinion being general, which has induced the general voice, I may say of the nation, to invite him to resume that laborious office, from which they cannot promise themselves in any degree an equal benefit, if administered by any other person. From him they expect (what they have already experienced) that disinterested and dispassionate independence; that vigilance, and order, and impartiality; that ability and authority; that exactness and dispatch, which may give spirit, and dignity, and weight, to the proceedings of parliament, and security to private property, to the privileges of this



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House, and to the forms and maxims of the constitution. To the public desire and benefit, he will, I am persuaded, always be inclined to give up all other considerations; and I make no doubt, that this House will think it a duty to themselves, and to the public, to make this burthen as light, as the nature of it will allow it to be, to one who has so reasonable an excuse for declining it, and to whom this House, and the public, must think themselves so much obliged for his accepting it again in this conjuncture.

The House calling Mr. Onslow to the Chair:

*John Willes*, esq. burgess for the borough of Banbury, addressing himself likewise to the Clerk (who, standing up, pointed to him, and then sat down,) spake to the following effect:

I rise up to do myself the honour of joining in this motion, which, considering how well it has been spoken to already, I should have declined doing; but the very great regard and reverence I have for the hon. gentleman who has been proposed, will not suffer me to be silent.

I am very glad to find, that all persons are agreed to make choice of a Speaker, for this parliament, who has already executed that office so much to his own honour, and to the satisfaction of the nation; and there cannot be a more convincing proof of his extraordinary abilities, than that there seems to be no other competition among us, but who shall be most forward to recommend him.

It is certainly a very great pleasure to a generous mind, to meet with universal applause and approbation; but how solid a satisfaction must it be to that hon. gentleman, to be conscious to himself, that he has deserved it? That it is not that praise which mean-spirited men sometimes give to power, but that reward which good men always pay to merit. That it is a tribute justly due to that candour and impartiality which he has shewn to all persons, upon all occasions.

It would be needless in me to mention the great talents necessary for this high office, and how well the hon. gentleman is qualified for it: of this, the greatest part of this House have been witnesses; no gentleman in the nation can possibly be ignorant.

The great difficulty in this question, is not, whether Mr. Onslow shall be chosen Speaker? but whether he will do this House the honour to accept of it? He has spent many years, undergone great fatigues, already in the service of the public; and might very well be allowed to take advantage of that excuse, which even a Roman writer thought sufficient: "The former part of our lives we give to our country, the latter to ourselves." Notwithstanding this, I hope the hon. gentleman will forgive me, if I esteem his own ease and happiness, as he himself has always done, of small value, when compared to the general good, and join with the united voice in this House, in giving my vote for Mr. Onslow.

The House again calling Mr. *Onslow* to the chair; he stood up in his place, and said:

"Mr. Hardinge;

"I am, in the first place to return my very humble thanks to the noble lord, and the honourable person on the other side of the House, and to the noble lord, and the worthy gentleman on this side, for the extraordinary favour they have done me, by those kind characters of commendation with which they have been pleased to mention me to the House. Many, very many, things they have said, I dare not presume to lay claim to; they are the effects of that friendship, which the noble lords and the worthy gentlemen have honoured me with; and a greater honour no man can receive: they have concluded, Sir, with moving the House, to place me again in a station here, which it may be I possessed too long before; and nobody can be more sensible of that than I am: but, however, Sir, painful as that situation at any time, and worn perhaps as I am by the labours of it, yet since gentlemen seem inclined to try once more my poor abilities in that service; and, after what has passed, I do not think it decent in me to dispute their commands; and shall therefore, with all humility, as I am sure I ought, resign myself to the judgment of the House, who have a right to dispose of me here in whatever manner they shall think proper."

The House again calling Mr. *Onslow* to the chair, he was taken out of his place by the lord marquis of Hartington and Mr. Yorke, who led him from thence to the chair; where, upon the first step, he said,

"It is my duty to let gentlemen know, that, before I go any further, they have it in their power to call me back to the seat from whence I came, and to chuse some other person to fill this."

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But the members cried, 'No, no,'

Whereupon Mr. *Onslow* ascended the upper step of the chair; and, standing there, said,

"Since gentlemen have been pleased to command me to this place, I have now only to return my humblest thanks to the House for this repetition of their good will, and great favour to me."

And thereupon he sat down in the chair; and then the mace, which before lay under the table, was laid upon the table.

*The Speaker's Speech on being presented to the King and approved of.*] Nov. 12. His majesty went again to the House of Peers; and having sent for the Commons, Mr. *Speaker-Elect* made the following Speech:

"Most Gracious Sovereign:

"Your majesty's dutiful subjects, the Commons of this your realm, in parliament assembled, have, in pursuance of your majesty's direction, and of their ancient right, elected one of their members, to be their Speaker for this parliament: and their choice, Sir, having once more fallen upon me, for this high and important trust, they now present me to your majesty, for your judgment upon their election. Needless will it be in me, Sir, to mention on this occasion, with regard to myself, what I fear cannot but be too well known to your majesty: it therefore best becomes me, with silence and submission, to resign myself to your royal determination."

Then the *Lord Chancellor*, after receiving directions from his majesty, said,

"Mr. Onslow,

"You have appealed to the king's own experience and knowledge, for the decision of the weighty affair now under his consideration; and it is from thence his majesty has formed his judgment. After having had such clear demonstration of your abilities, zeal, and application in the service of himself, and of your country, in three successive parliaments, his majesty commands me to let you know, that he entirely approves the choice which his faithful Commons have made; and allows and confirms you to be their Speaker."

Then Mr. *Speaker* said,

"Since your majesty has been pleased to confirm the choice your Commons have made of me to be their Speaker, it is my duty, Sir, with all humility, to conform myself to their appointment, and your royal approbation of it; begging your majesty's favourable acceptance of my humblest acknowledgments, for this fresh instance of your majesty's grace towards myself; and that your majesty will vouchsafe to pardon my failings and infirmities; at least, not to impute them in any-wise to your faithful Commons. And that your Commons in parliament, Sir, may be the better enabled to discharge their duty to your majesty and their country, I do, in their name, and on their behalf, by humble petition to your majesty, lay claim to all their ancient rights and privileges; particularly that they, their servants, and estates, may be free from arrests, and all other molestation; that they may enjoy freedom of speech in their debates, and have liberty of access to your royal person, when occasion shall require it; and that all their proceedings may receive from your majesty the most favourable interpretation."

Then the *Lord Chancellor*, after receiving further directions from his majesty, said,

"Mr. Speaker;

"The king has the utmost confidence in the duty and affection of this House of Commons to his person and government, and a high opinion of that prudence and temper which they will use in all their proceedings; and his majesty does most readily grant and allow to them, all their privileges, in as full and ample manner, as they have at any time heretofore been granted or allowed by his majesty, or any of his royal predecessors. There is one suit, Sir, which you have made on your own behalf: his majesty has received the surest pledge, that no person in your station ever stood less in need of it than yourself; but that you may want no support in sustaining the burthen of that important trust which is reposed in you, his majesty has directed me to assure you, that he will put the most favourable construction both on your words and actions."

*The King's Speech on Opening the Session.*] His Majesty then opened the Session with the following Speech:

"My Lords and Gentlemen;

"As one of my principal views, in calling this parliament, was, that I might receive the most clear and certain information of the sense of my people, on the present posture of affairs, I was desirous to

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meet you as early as your own convenience, as well as that of the public, would admit.

"By the advice of my parliament, I entered into the War against Spain, in order to vindicate and secure the trade and commerce of my subjects. By their advice also, and in conformity to my engagements, I undertook the support of the empress-queen of Hungary, and of the just rights of the House of Austria. In resentment of this conduct, so necessary for the interests of my own kingdoms, and of the ancient allies of my crown, France not only declared war against me, but fomented and supported an unnatural Rebellion within this kingdom. In carrying on this just and necessary war, I have found the most cheerful and vigorous support from my parliament; and though the success has not been answerable to our wishes and just expectations, in the Low-Countries, yet it must be allowed, to the honour of this nation, that no part of the misfortunes can be imputed to us.

"The signal successes, which it has pleased God to grant us at sea, have made the enemy feel the weight of our naval strength, to their great loss, and the real and solid advantage of this nation. This has appeared most remarkably in the operations of my fleet this last year; which have tended no less to the honour of the British flag, than to the reduction of the maritime force and commerce of France. The government of the United Provinces has, once more, resumed that consistency, which will give great strength to the common cause; cement more firmly the friendship between this kingdom and that republic; and be a lasting security to our inseparable interests. One great effect of this happy alteration in Holland, has already appeared, in the vigorous declarations lately made by the States-General to the court of France; and the orders given by them, for committing hostilities every where against the French king and his subjects.

"Some overtures for a general pacification have lately been made to me, on the part of France; and though some of the terms proposed were such as could not be approved, yet as I have had no other aim, but to bring about a safe and honourable peace, I have shewn the utmost inclination to facilitate it, in conjunction with my allies; and a congress is actually agreed to be held at Aix-la-Chapelle, whither the several ministers will soon repair. I hope all the powers concerned will bring with them the same dispositions to effectuate this great work, on just and reasonable conditions, which I sincerely have.

"In this situation, I am confident you will agree in opinion with me, that it is necessary to be vigilant and attentive to every event; and that there can be no reason to expect a good peace, but by being timely prepared to carry on a vigorous and effectual war. I therefore rely on your hearty and powerful support, to enable me to prosecute the war, in case the obstinacy of our enemies, in not agreeing to just and reasonable terms of accommodation, should render it unavoidable. For this purpose, I am now actually concerting the necessary measures with my allies, whose interests I am determined to adhere to and support. Let us be in readiness, in case the negociations should fail of the desired effect, to convince our enemies, how much they are mistaken, if they vainly imagine that Great Britain and her allies, will submit to receive the law from any power whatsoever; and demonstrate to the world, that we will decline no difficulty or hazard for the preservation of the common liberty, and our own independency, and essential interests.

"Gentlemen of the House of Commons,

"The necessity of adequate Supplies, appears from what has been already mentioned. The proper Estimates for the services of the ensuing year, shall be laid before you; and I desire you to grant me such Supplies, as your own security and lasting welfare, and the present critical and important situation of affairs, require. You may depend on their being applied only to the purposes for which they shall be given; and if, by the falling out of events, any saving can be made, it shall be duly accounted for.

"My Lords and Gentlemen,

"If any farther provisions shall be found expedient, to render more effectual the good laws lately made for the security of the present establishment, extinguishing the spirit of rebellion, and for the better civilizing, improving, and reducing into order, any part of the United Kingdom, I depend on your known affection to me and to your country, seriously and early to set about so good a work. I will only add, that there never was a conjuncture, in which unanimity, firmness, and dispatch, were more necessary for the

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safety, honour, and true interest of Great Britain."

*The Lords' Address of Thanks.*] His majesty having retired, their lordships agreed upon the following Address, which was moved for by the earl of Halifax and seconded by the earl of Rochfort:

"Most Gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your majesty our humble thanks, for your most gracious Speech from the throne.

"The generous and public-spirited views with which your majesty entered into this just and necessary war, are evident to the whole world; and your people have been the more strongly animated to support it, by the part your enemies have taken, not only to overturn the liberties of Europe in general, but to disturb your majesty's government, the solid foundation of our happiness. The events of war are always uncertain; but, at the same time that we see with the greatest concern the misfortunes which have happened in the Low Countries, we gratefully acknowledge your majesty's goodness and justice, in vindicating the honour of this nation from any imputation arising from thence.

"With unfeigned joy we congratulate your majesty, on the signal successes with which it has pleased God to bless your arms by sea. No loss can be more sensibly felt by your enemies, and no advantage tend more to the glory and real benefit of your kingdoms, whose commerce and naval strength must be increased in proportion as that of France is diminished.

"We cannot approach your royal person, on this occasion, without expressing our highest satisfaction in those events which have happened in Holland, in favour of a prince allied to your majesty by the nearest ties, descended from an illustrious House, in which the defence of public liberty has been hereditary, and which has produced deliverers of this country, as well as of that Protestant republic. From this happy alteration we cannot but promise ourselves the strictest union of councils between your majesty and the States General, and an additional strength in pursuing such measures as shall be most conducive to the common good of both nations; of which we consider the seasonable declaration, lately made by the States to the court of France, and the orders given thereupon, as a strong indication.

"Your majesty's paternal concern for your people appears in nothing more, than in your sincere desire to bring about, in conjunction with your allies, an honourable peace, on just and reasonable terms. At the same time that we offer our humble thanks to your majesty, for this gracious disposition to procure ease and repose to your subjects, by effectuating this great work, permit us to assure you, that we are convinced by past experience, as well as by your majesty's prudent declaration, that the only way to procure a good peace is to be prepared to carry on a vigorous and effectual war. For this reason, we cannot but gratefully acknowledge your majesty's vigilance and care to enter into a timely concert with your allies, in order to be in readiness for that event.

"We beg leave, from the bottom of our hearts to give your majesty the strongest assurances of our inviolable fidelity and affection to your sacred person, family, and government; and that we will heartily and chearfully concur, to enable your majesty to prosecute the war with vigour, in case the obstinacy of your enemies should render it necessary; no difficulty or hazard being capable of lessening our zeal and steadiness for the maintenance of the honour of your crown, the independency and essential interests of your kingdoms, and for the defence of your allies.

"We will not fail to take into our serious consideration what further provisions may be expedient, for better securing the present happy establishment, extinguishing the spirit of rebellion, and for reforming and reducing into order such parts of the United Kingdom, where the want of improvement, knowledge, and due obedience to the laws, has remarkably furnished opportunities to seduce the people from their loyalty. The stability of your majesty's throne, the glory and tranquillity of your reign, and the prosperity of our fellow subjects, we have entirely at heart: and our utmost firmness, resolution and dispatch, shall be exerted, to attain those desirable ends which your majesty has so wisely and graciously recommended to us."

*The King's Answer.*] His majesty gave this Answer:

"My Lords,

"Nothing could give me greater satis-



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faction than this dutiful and affectionate Address. I heartily thank you for it; and do not doubt but the becoming zeal you have unanimously expressed, and your ready concurrence in my sentiments, will have a very good effect both with our friends and enemies, and strengthen my hands to pursue such measures, either of peace or war, as shall be most conducive to the interests of my kingdoms, and the support of my allies."

*Mr. Speaker Onslow's Speech to the Commons, on being chosen.*] The Commons being returned, Mr. *Speaker* said:

"And now I must beg gentlemen to give me leave once more to return my humble thanks to the House, for this great honour they have again conferred upon me; and to assure gentlemen of my continuance of that fidelity in their service, which I am persuaded they believed I had ever practised before, or they would not have promoted me again to this important trust. I can truly say, that your approbation of my service, is with me the best reward I can have for it: let me add this humble request to it, that gentlemen will be pleased to afford me those allowances of candour and tenderness, which are sometimes due to an old and faithful servant, even in his failings.

"After having said this for myself, I am bound to exhort gentlemen, for their own sakes, as well as for that of the public, to keep strictly to the rules and orders of the House, so wisely adapted by our ancestors, to the carrying on of business with all necessary deliberation, and yet with proper dispatch; to prevent personal altercations, and all other indecorum, to which large assemblies are but too liable; and to preserve, in general, that gravity and dignity in our proceedings and deportment here, which so much become the great council of a nation, and the high office of legislature; and that all this may be the better done, I am obliged also, not only to recommend, but earnestly call upon gentlemen to meet early in a morning for the business of the House: the neglect of that must produce an evil, which will much affect the credit of our proceedings; I mean, an over-haste in some things, and too great delay in others. If that has happened of late, I doubt not but gentlemen will think it their duty to reform this bad practice; and the rather, because it may be seen in those printed Journals, which are now in the hands of many, and which I hope, for various reasons, will be often and well perused, how very different the attendance and diligence of their ancestors were here: they thought they were sent hither to do and to dispatch, as soon as they could, the great business of their country in parliament; and that (to mention an expression elsewhere used) the top of an English gentleman's ambition was, to become an able parliament-man, and to return to his country with the figure and reputation which will always attend that useful and eminent character."

After which, Mr. Speaker put the House in mind, that the first thing to be done, was to take the oaths, and make and subscribe the declaration, and to take and subscribe the oath of abjuration, by law required. And thereupon Mr. Speaker, first alone, standing upon the upper step of the chair, took the said oaths, and made and subscribed the said declaration, and took and subscribed the said oath of abjuration.

*The Commons' Address of Thanks.*] Nov. 16. The Commons agreed upon the following Address: it was moved by Mr. Legge, and seconded by Mr. Richard Edgcumbe:

"Most Gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return your majesty our unfeigned thanks for your majesty's most gracious Speech from the throne.

"With hearts full of the sincerest joy, we congratulate your majesty on the great and important successes which it has pleased Almighty God to bestow on your majesty's arms at sea, and which not only redound highly to the honour of the British nation, but, by reducing the maritime force of France, manifestly tend to the security of your majesty's government, and the prosperity and trade of these kingdoms.

"We beg leave to express to your majesty, the great and just satisfaction we have received from the happy settlement of the government of the United Provinces, in which a prince so nearly allied to your majesty has so great a share. Nor can we doubt, but that the good effect resulting from that settlement, will be a thorough union of counsels between your majesty and the republic; more especially, as the vigorous declaration, lately made by the States General to the court of France,

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gives us the strongest presumption, that, in all measures, whether of peace or war, which shall be deemed for the honour, interest, and security of these kingdoms and that republic, they will co-operate zealously and firmly with your majesty.

"With the deepest sense of gratitude we acknowledge your majesty's paternal care for the welfare of your subjects, in the sincere disposition your majesty has shewn for a general pacification, by hearkening to the overtures lately made for that purpose, and endeavouring, on your majesty's part, to bring about a speedy, safe, and honourable conclusion to this burthensome and expensive, though just and necessary, war.

"But if, contrary to our wishes and expectations, the enemies of Great Britain, by insisting on unreasonable and inadmissible terms, make the continuance of the war unavoidable, we beg leave to give your majesty our most determined assurances, that we will support your majesty to the utmost: and, in order to convince our enemies of this our stedfast resolution, we will immediately grant such supplies as may, in conjunction with your majesty's allies, enable your majesty to carry on the war with vigour, maintain the honour and dignity of the crown of Great Britain, and support the mutual interest of your majesty and your allies.

"At the same time, permit us to assure your majesty, that we shall be ready to contribute our assistance towards perfecting and rendering more effectual those provisions which have been already made for securing the interior peace of these kingdoms, and establishing your majesty's throne upon the most firm and lasting foundations."

*The King's Answer.*] His majesty gave this Answer:

"Gentlemen;

"The early marks of trust and confidence, which you repose in me by this Address, give me the greatest satisfaction. You may be assured, that I have nothing more at heart, than to put, as soon as possible, such an end to the present troubles, as may be consistent with the good of my people, the security of my allies, and the honour and true interests of my kingdoms."

*Debate in the Commons respecting the Interference of a Peer at the Seaford Election.*] November 20. A Petition of the right hon. Charles Sackville, commonly called earl of Middlesex, and the hon. William-Hall Gage, esq. was presented to the House, and read; setting forth, "That, at the last election of barons to serve in this present parliament for the town and port of Seaford, in the county of Sussex, the petitioners, together with the right hon. William Pitt, and William Hay, were candidates: that on the day before the said election, a noble peer of this realm, did invite to, and entertain at his house, most of the voters of the said town and port; and in the room where they were assembled, spake to them one by one, and did solicit and influence them, with respect to giving their votes at the said election; by means whereof, several persons, who had promised to vote, and would have voted, for the petitioners, were prevailed upon by the said noble peer to vote for the said Mr. Pitt and Mr. Hay; which proceeding, the petitioners conceive, is an high infringement of the liberties and privileges of the Commons of Great Britain: that, on the day of the election, in order to awe and influence the voters in favour of the sitting members, and deter them from voting for the petitioners, the said noble peer came into the court, accompanied by other peers of the realm; and, being seated near to the returning officer, did continue there until the poll was closed; notwithstanding the presence of him, and the said other peers, was objected to by one of the petitioners, and the returning officer applied to by him, not to take the poll while the said peers remained present in the court; in all which, the said petitioner thought himself fully justified, as he apprehended their presence obstructed the freedom of the election, and, from the several declared resolutions of the House of Commons, was a violation of the rights and privileges of the Commons of Great Britain; and that by these, and other illegal practices, the petitioners lost a great number of votes, which would otherwise have been given for the petitioners: and therefore, praying the House to take the premises into consideration; and to grant the petitioners such relief as to the House shall seem meet."

The House was moved, That the Resolution of the House of the 16th instant. "That it is an high infringement of the liberties and privileges of the Commons of Great Britain, for any lord of parliament, or any lord lieutenant of any county, to

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concern themselves in elections of members to serve for the Commons in parliament," might be read: and the same was read accordingly: a motion was made, and the question being put, that the matter of the said Petition be heard at the bar of this House: upon which a debate arose.*

Mr. *Pitt*, one of the sitting members, treated the Petition with great contempt, and turned it into a mere jest.

Mr. *Potter*† answered as follows:

Sir; though the substance of the Petition, which has now been presented to the House, has, as the hon. gentleman has been pleased to observe, been much spoken of in the world; and though, before I came to the House to day, I had reason to expect that such a Petition would be presented, yet I had resolved within myself, to take no part in any debate which it might occasion, as thinking it would better become me to hear reason from others, than to presume to offer any reasonings of mine to the House. I am still, Sir, of the same opinion, as to what would best become me; and I do not rise up now, with the least imagination, that any thing which I shall offer to the House, will vary the sentiments of any one person in it; but, Sir, I rise up to do myself justice: for, as I look upon the matter, contained in this Petition, to be of the utmost importance to the honour of this House, and even to the existence of parliament; and as to my very great amazement, I see this question treated with the greatest contempt and ridicule, by an hon. gentleman, whose weight may, perhaps, persuade a majority to be of his opinion, I think, I owe it to myself, to declare my sentiments on this great occasion, by something more than the vote which I shall give. I hope, Sir, things are not yet come to such a pass, as to make it necessary for any man to go about to prove that the constitution is destroyed, whenever this House shall lose its independency. After all the noble struggles made in this House by great patriots, after all the laws passed by the legislature to preserve that independency, I should hope, that out of decency, as well as out of regard to truth, I may be allowed to argue upon that, as upon an indubitable maxim. The representatives of the people, when they are chosen to that office, have been said to be independent, even of their constituents: how necessary then, Sir, is it, for this House, to take care, that there is no other improper or corrupt dependency? But, Sir, if the ministers are to be allowed to nominate to the boroughs, the persons who shall be their representatives, how are we to expect an independent parliament? That ministers may endeavour to subvert this independency, that they may think it even necessary to their own security, to corrupt parliaments, we have too much reason to know: but, Sir, whatever pains former ministers may have taken for this purpose, what undue methods soever they may have used to gain to themselves a corrupted majority in this House, I believe history is not able to produce an instance equal to the present, of a wise and great statesman taking upon himself the honourable employment, of being an agent at a borough: it was not enough, to signify his commands by his underlings; it was not enough to solicit votes in his own person; the voters, it seems, could not be trusted out of his presence, and, therefore, they were to be attended even to the poll. But, Sir, this great humility and condescension in a minister, would, in former times, have been construed a most notorious invasion of the rights of the people, and of the privileges of this House. And, Sir, what will the people say to us, or what will they think of our independency, if we are not as jealous of their rights, and as tenacious of our own privileges, as any of our predecessors have been? What will they think, Sir, if, after seeing one parliament dissolved in a new and unprecedented, I had almost said an unconstitutional manner, they shall be told, that the ministers have been nominating their representatives in the next, even without the ceremony of a *Congé d'Elire*? But, Sir, still further; what will they think, if they shall be told, that this proceeding of the ministers has been laid before the House of Commons, and that the House of Commons will not, or dare not, censure him? There have been times, Sir, when no man was thought too great to be accountable to this House for his conduct; and I could give an instance, even in my own memory, of a great and an able statesman, whose long administration was an honour and benefit to his country, and whose conduct this House thought fit to enquire into, by the most severe scrutiny. To have such a minister, Sir, in the pre-

* From the Gentleman's Magazine.
† Son of the Archbishop of Canterbury.

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sent melancholy situation of affairs, when we stand so much in need of wise and able counsellors, I am afraid is not our fate: but if ever, to our shame, the annals of this period shall be delivered down to posterity by a faithful historian, he will have, Sir, a new portrait to draw, of a minister, the most incapable, though the most ambitious; the weakest, though the most insolent; the most pusillanimous, though the most presumptuous——

*Mr. Pelham:*

I rise up, Sir, to prevent that young gentleman's being more disorderly, than he has been already: he has been drawing a character, Sir, which he must intend for somebody, though as yet he has named nobody. I would have him, Sir, take care what he is doing; and that, if he does name any one, he should be prepared to prove what he has said.

*Mr. Potter:*

I am glad to find, that the irregularity which the hon. gentleman would lay to my charge, is such only as I might hereafter have committed, in what I was going to say; for it would be matter of great concern to me, to have offended against the orders of the House, especially at a time when I was exerting myself, and, I hope, with no unbecoming zeal, in support of their most valuable privileges. My subject, indeed, had naturally led me to do that justice, which, I thought, was due to the memory of a great and an able statesman; and I am sorry to find, that encomiums upon that great man, give so much offence to that hon. gentleman. With regard to the character, which I have drawn by way of contrast, the hon. gentleman says truly, I have not named any one to whom I would apply it; nor do I think, Sir, that I have been so ill a painter, as to make it necessary for me to write the names of those to whom it may belong. The hon. gentleman seems to suspect it was intended but for one man, and, perhaps, he is not mistaken. But if upon examination it shall be found to fit more than one, more are welcome to take it: if it fits no one, it is as if it had never been drawn.

To return, therefore, to my subject, in which I ought not to have been interrupted: when I first heard the Petition read at your table, I could hardly believe it possible that the allegations it contained were founded upon truth: I expected to have heard the friends of the noble person, who is the object of it, boldly denying the charge, and calling loudly upon the accusers to justify it; I was determined not to believe it, unless supported by the strongest proof. But, Sir, how great was my amazement, when I heard an hon. gentleman, who was privy to the whole transaction, not only admitting every fact alleged to be true, but openly avowing and attempting to justify them. In what light they may appear to him, Sir, he can best tell you; but to me, Sir, it seems most manifest, that as the conduct complained of was the greatest injury that could be done to our privileges, the attempt to justify it is the greatest insult upon our understandings. In what other light, Sir, can it appear to us, than as the last and utmost effort of one who was determined, at any rate, to procure a majority in this House, of persons attached to himself, his own creatures, the tools of his power; I wish to God, Sir, nothing may happen to-day, to give the people room to suspect that he has been too successful. What more, Sir, could he have done? Or what greater insult is it possible for him to offer, unless he should come even within the walls of the House to direct our determinations? After what he has done, I should not wonder, Sir, if he did come and take that chair, and tell you (as we were told formerly) that your mace was a bauble,* and that you should keep it only while you please him. Your mace, Sir, is a bauble, and so is every other ensign of authority, unless you can preserve your independency: a dependence upon the crown, Sir, would in the end prove fatal to our liberties; but a dependence upon the minister, as it is infinitely more dishonourable, is infinitely more dangerous. One might suppose, Sir, some security to a people from the honour of a crowned head, and from the solemn compacts that are made between them and their sovereign. I know of no compacts that are, or can be made, between a minister and the people. I can suppose too, Sir, that in some future time, a minister may arise profligate enough to carry his views so high, as to attempt to make both king and people subservient to his own ambition: I can imagine such a one, Sir, taking advantage of some general calamity, or time of general confusion, by a corrupt parliamen-

* See vol. 3, p. 1384.

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tary influence, oppressing even the king upon his throne, and making the crowned head a prisoner in his closet. I can imagine him, Sir, so blown up with folly and self-conceit, as to become a competitor even with those who shall be of royal blood, for posts of dignity, or titles of honour; and he may say, Sir, (it is hardly possible, indeed) but he may even prostitute the name of the crown to support and assist his pretensions. This, Sir, I say, is a picture which I can draw in my own mind, of the miserable situation of this country, if ever the parliament should become dependent on a minister. But as this can never happen, but in some time of general infatuation, or general corruption, the wisdom and virtue of the present age scarce secure us from seeing it otherwise than in imagination: But, Sir, whatever I see, or whatever I feel, God forbid that, by any act or vote of mine, I should make the way easy for such miseries to overwhelm any future generation. The hon. gentleman was pleased to say, 'that this was a new case, and that there was no precedent upon our Journals to guide our proceedings:' but let it be remembered, Sir, that this can never be the case again, since the vote of to-day will remain upon our books an eternal precedent to posterity, and a law to this House for the future. For God's sake, then, Sir, let us consider a little, what sort of a law we are going to make; let us remember, that if the present transaction passes uncensured, and is declared free from guilt, we may hereafter see every peer of parliament, every secretary, and other officers of state, every Chancellor of the Exchequer, with his treasury bags under his arm, attending and soliciting elections; and when they shall be called upon in this House to justify their proceedings, they shall tell you they have done nothing but what they had a right to do, and that such was the opinion of this wise, this independent, this freely elected parliament.

Sir, I am not one of those persons, who will ever be for extending the privileges of this House to any ridiculous or romantic degree: if I could but persuade myself, that there was the least room to doubt upon this occasion, I should think that humanity obliged me to put the mildest construction. But really, Sir, upon my word, I think the insult offered to the House to be of so flagrant a nature; I think the precedent must prove so dangerous to the honour and independency of parliament; I think the consequences must be so destructive to the constitution, as to deserve and demand the severest animadversion. The hon. gentleman was pleased to ask, What is the object of the Petition? Sir, I will tell him what the object is; it is the security, the freedom of parliaments, and protecting the privileges of the Commons of Great Britain. Surely, Sir, from this House the Commons of Great Britain have a right to expect justice: their most valuable privileges have been trampled upon and insulted, and they come now by this Petition to demand justice: justice, Sir, they will receive, and, I hope, now; but of one thing I am sure, that sooner or later they will have it.

The question being then put, That the matter of the said Petition be heard at the bar of this House, it passed in the negative by 247 against 96.

*Debate in the Commons on the Bill to prohibit Insurance on French Ships.**]

Dec. 18. On presenting to the House, according to order, a Bill to prohibit Insurance on ships belonging to France, and on merchandizes or effects laden thereon, during the present war with France,†

Mr. *Nugent* said:

Sir; when we take a view of the behaviour and actions of mankind, not only in this, but all other countries, we cannot help being surprized at finding, how much their understandings are blinded and their judgments biassed by self-interest. This general reflection I have been led into, by considering a most enormous grievance which this nation has laboured under, ever since the beginning of a French war; and a grievance which, if not redressed, may render the war perpetual. The grievance I mean, Sir, is the liberty many of our people take to correspond with the king's enemies, and to procure or grant Insurances upon their ships. By the 25th of Edward 3, and by the constant practice

* From the London Magazine.

† "This Bill bore long and warm debates; for many of the most eminent merchants in the House of Commons undertook to demonstrate, that the nation received (notwithstanding all the sums the insurers paid) vast benefit from insuring French property. The Bill, however, being popular and plausible, though it was afterwards discovered to be founded upon wrong principles, passed into a law." Tindal.

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since that time, it is declared high-treason to aid the king's enemies either within or without the realm; and his majesty, in his declaration of war against France, expressly forbids us to hold any correspondence or communication with the subjects of the French king. Notwithstanding these express prohibitions by statute, by custom, and by the king's proclamation, yet ever since the war began, the merchants in England have continued to correspond with the merchants in France, and to procure or grant them insurances upon their ships; by means of which, the latter have been enabled to continue their trade and commerce, and the former have been obliged to remit large sums of money yearly to France; which has enabled our enemies, and will enable them for ever, to continue the war against us.

If this, Sir, be not aiding the king's enemies, I do not know what is; and if we had neither law, custom, nor proclamation against it, I should think that conscience itself would prevent the practice; for, I am very sure, that, if the case were considered fully and impartially, every man's conscience would direct him to think it highly criminal, to aid or assist the enemies of his country. But by this practice, the factor who receives the commission to insure, the office-keeper or broker who procures the insurance, and the insurer who underwrites the policy, receives each a trifling private advantage, and this private advantage either blinds their understandings, or misleads their judgments, so as to prevent their perceiving, that they thereby do an injury to their country, and are guilty of high treason against their sovereign.

I say high-treason, Sir; for it is so, I think, in law, as well as *in foro conscientiæ*. Our merchants, I know, who carry on this practice, are far from considering it in this light. They consider it only as an innocent correspondence, which is beneficial to their country, by preserving to us a profitable branch of trade, and which gives no advantage or assistance to the enemy, but what they might procure from other countries, if we should refuse to let them have it in this. But I hope they will grant, that a cheap, easy, and secure access to insurance upon shipping, is a great encouragement to commerce, because it encourages men of small capitals to enter into it, and enables them to continue in it, even after their ships happen to have the misfortune of being taken or lost. If there were no such thing as insurance; if every merchant, concerned in a ship or cargo, were to bear his own loss, upon her being taken or lost, no man of a small capital would ever become a merchant, or engage in commerce; or if he did, he would probably be ruined by the first misfortune of this kind he met with; because, in order to make the proper advantage of a seasonable piece of intelligence, communicated to him by his foreign correspondent, a merchant is often obliged to load goods to a great value on board of one ship, which, without insurance, would ruin him, in case that ship should be lost or taken by the enemy: whereas, when the whole is insured, he only loses the advantage of that voyage; and as he is not obliged to communicate his intelligence to his insurers, he may, perhaps, by a second adventure, make the most of his intelligence, before the opportunity be entirely lost.

Insurance, therefore, Sir, must be allowed to be of such consequence to commerce, that without a cheap, easy, and secure access to insurance, no nation can ever acquire, or long preserve, an extensive commerce; and if we consider the circumstances of the kingdom of France, we must conclude, that without an extensive commerce, they can never long carry on any war by land or sea. As to all the necessaries and luxuries of life, France, I shall admit, is as fertile a country as any in Europe; but it has no mines of gold or silver, nor does it produce any quantity of those commodities that are necessary for providing or recruiting its magazines with the implements and stores of war, either by land or sea. All these it must acquire by its commerce; and consequently, if we can put an end to the French commerce, we shall soon disable that ambitious nation from carrying on either an offensive or defensive war.

As these circumstances, Sir, were known to us at the beginning of the war, might not common prudence have suggested, that the most effectual method we could take for bringing the war to a happy and speedy conclusion, was to take every method we could think of for putting an end to the French commerce? And was there any method more obvious, than that of depriving the French merchants, as much as we could, of any access to insurance upon their shipping? Our merchants, it is true, will say, that if we had prohibited, or should we now prohibit their insuring in England, they will either set up offices of

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insurance of their own, or they will find insurances in Holland, or some other part of Europe; so that by such a prohibition we shall do them no prejudice, and we shall deprive our own country of a very beneficial branch of commerce. But does not the great business they have in that way carried on here, notwithstanding the war, demonstrate, that the insurance they meet with here, is either at a cheaper rate, or more secure, than what they can meet with either at home, or in any other part of Europe? Does not this evidently shew, that by preventing their meeting with any insurances here, we shall very much distress, if not altogether ruin, their commerce? From experience we know, that an opinion prevails generally among the merchants in France, that they cannot depend upon any insurances but those they meet with in England. This opinion has long prevailed among them; and even supposing this to be but a popular prejudice, yet as such prejudices, after being once rivetted, are not easily or speedily removed, we may conclude, that if we should prevent their meeting with any insurances here, it would force many of the French merchants out of trade, and make them resolved to live upon what they had acquired, rather than risk being ruined by trusting to a bad insurance.

It is therefore, I think, Sir, evident to a demonstration, that by prohibiting the insuring of any French ships, or goods on French bottoms, we shall bring an immediate distress upon the whole French commerce, and a distress too from which they cannot soon or easily recover: nay, I am convinced, they will find it impossible to recover during the war, which will of course render it necessary for them to agree to reasonable terms of peace, notwithstanding the success they have lately met with by the superiority of their armies in Flanders. Then, Sir, as to the injury we may do ourselves by putting an end to a beneficial branch of our commerce, I shall grant, that very large sums of money are remitted here yearly from France, for paying the premiums upon insurance; but this is in a great measure but an imaginary advantage; for all those sums, except a mere trifle, when compared with our expence in supporting the war, must be sent back again to France, for making good the damage sustained by their merchants upon those ships that are insured here, and afterwards lost at sea, or taken or destroyed by our ships of war. Therefore, the loss which the nation may sustain by being deprived of this trade, cannot, I think, be of any weight, when compared with the advantages we shall reap by bringing the whole French commerce into immediate distress. And if no French ship were insured here in England, perhaps our cruizers and privateers might meet with more prizes at sea; for though I shall not suppose, yet there is reason to suspect, that some of our insurers may give intelligence to their correspondents in France, so far as they can learn, of the stations and course both of our cruizers and privateers; because in this age, when public spirit is at so low an ebb, I am afraid, we have not many amongst us that would chuse to lose 1,000*l.* rather than prevent their country's getting 10,000*l.*

I hope, Sir, I have now convinced every gentleman, that this correspondence between his majesty's subjects and the subjects of the French king about insurances, ought to be entirely cut off; and since his majesty's proclamation has not been found to be effectual for this purpose: Since the duty which every man owes to his country, has in this respect been disregarded, I think, some new law ought to be made, for enforcing his majesty's proclamation, and thereby putting an immediate stop to this pernicious practice.

Mr. Solicitor General *Murray*:

Sir; although I have very little hopes of succeeding in an opposition to what the hon. gentleman has proposed, yet as I have the honour of a seat in this assembly, I think the duty I owe to my country obliges me to give my sentiments openly and freely upon the subject, because I see we are about to do what we have before often done upon the like occasions: we are going to make a regulation under popular pretences, which, in my opinion, will ruin a very beneficial branch of trade we are now in possession of, I may say, without a rival, and will transfer it to our greatest rival and most dangerous enemy. This, I say, Sir, we have often done before, of which I could give a multitude of instances, but shall mention only a few, in order to shew how cautious we ought to be of making any new regulations or prohibitions with respect to trade, however plausible the pretences may be that are offered for inducing our approbation.

In the reign of Charles 2, our landed gentlemen, especially those in the West,

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found that the produce of their estates, such as cattle, sheep, swine, butter and cheese, was very much lowered in its price, by the importation of such commodities, especially from Ireland. Though it is the general interest of every country where there is any trade or manufacture to have the price of those commodities as cheap as possible, because it lessens the price of labour, and consequently enables them to undersell their rivals at every foreign market, yet the imaginary private interest of our landed gentlemen prevailed in spite of the court, over the general interest of the country, and a law was made for prohibiting the importation of all such commodities. I say, Sir, the imaginary interest of the landed gentlemen; for it is certainly their real interest to encourage by all possible means the trade, manufactures and commerce of their country; but this is a future distant interest, which strikes very few men so strongly as that which is present; and therefore the present imaginary interest then prevailed over that which was real, but future. What was the consequence? As to the black cattle and swine, the Irish being thus prevented from importing them into England, where formerly they were fattened up and killed, the breeders of such cattle and swine were forced to fatten them up themselves, to salt what they could not find vent for at home, and to sell their salt-beef and pork, as well as their butter and cheese, to the French, who were then just beginning to set up manufactures, and to plant their sugar colonies, neither of which they could so easily or soon have done, had they not been supplied with these provisions from Ireland.

This was, Sir, the fatal consequence of our wise regulation with respect to Irish black cattle, swine, butter and cheese; but with respect to sheep, the consequence was still more fatal: for the Irish being prevented from bringing their sheep to England, and being unable to make any thing of them when killed at home, or to send them dead or alive to any foreign market, they kept them running in their sheep-walks, and increasing in number every year, merely for the sake of the wool, by which that commodity was rendered much cheaper in Ireland than it was in England, which produced two consequences fatal to our trade and manufactures; for, first by the cheapness of wool in Ireland, great quantities of it were stolen away to France, notwithstanding the utmost we could do to prevent it, and sold there as cheap, as the same commodity could be sold in England, which laid the first and chief foundation of all their woollen manufactures; and, 2ndly, by the cheapness of wool in Ireland, the people there were enabled to set up woollen manufactures of their own, which soon came to vie with those of England; so that our merchants found themselves rivalled and undersold at all foreign markets by the Irish, which led us into the committing of another most egregious solecism in our politics with regard to our trade.

As I have said, Sir, the merchants who exported our woollen manufactures, soon found themselves rivalled and undersold at most foreign markets by the Irish, this obliged them to endeavour to beat down the price of our manufactures here at home, and the reason they assigned for so doing was their being undersold by the Irish abroad, which of course raised a popular clamour against allowing the Irish to export any woollen manufactures. As every set of tradesmen, and, indeed, every particular tradesman, would be glad to have a monopoly in what he deals in, it was no way surprising to hear such a clamour raised among our manufacturers, and unthinking people here at home; and if we could by a law prevent every nation in the world from carrying on any woollen manufactures, I shall grant, that it would have been right to have prohibited the exportation of woollen manufactures from Ireland: but as we cannot by a law prevent other nations from being our rivals in this manufacture, as well as every other; as we can no way do this, but by enabling our own people to work up and sell their manufactures cheaper, than the same sort of manufactures can be worked up and sold in any other country, instead of prohibiting the exportation of any woollen manufactures from Ireland, we should have thought only on methods for rendering the materials and labour in England, as cheap as they were in Ireland; and the first and most obvious method for this purpose was, to have repealed that law, which prohibited the importation of so many of the necessaries of life from Ireland.

But, Sir, instead of this, the popular clamour prevailed, and in the year 1699, a law was passed for prohibiting the exportation of any woollen manufactures whatsoever out of Ireland, to any place except England and Wales. Nay, even to England and Wales the exportation



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was laid under such restrictions, as made it almost impossible for the Irish to sell any of their woollen manufactures, except in their own country; the consequence of which was of course, that many of their manufacturers, both masters and servants were obliged to seek for employment in foreign countries, and most of them went to France, which established the woollen manufactures of that kingdom, and increased the clandestine exportation of wool from Ireland to France; so that in a little time the French made sufficient for their own consumption, and by a new solecism in our politics, we soon opened for them a foreign market: but before I explain myself upon this head, I shall observe, that if we had, in the year 1699, repealed the law which prohibited the importation of Irish cattle, sheep, swine, butter and cheese, it would have enabled the manufacturers in England to work up and sell their manufactures as cheap as the Irish, and both would have been sold so cheap at foreign markets, as would have greatly increased the demand, which would have furnished employment enough for all the manufacturers both in Ireland and England, and would have rendered it impossible for the French to succeed in establishing a woollen manufacture of any kind, because the cheapness of our coarse woollen manufactures would have made them be run into France, and consumed there, in spite of all the measures their government could have taken to prevent it: and every one knows, that manufactories have in all countries been first set up by the coarser sort of manufactures, consequently, if we could have prevented the French from succeeding in any of the coarser sort, we should have prevented their being ever able to manufacture any of the finer sort, either for themselves or their neighbours.

Thus, Sir, by endeavouring to keep up the price of our own manufactures, at the expence of our fellow-subjects in Ireland, we enabled our most dangerous enemies to succeed so far in setting up woollen manufactures, as to furnish themselves with what they wanted in that way, and as I have said, we at last enabled them, by a new solecism in our politics, with regard to trade, to become our rivals at foreign markets. What I mean, Sir, is our declaration of war against Spain, in 1702; for though we had sufficient provocation at that time for declaring war against France, the new king of Spain, whom we had acknowledged but the year before, had given us no provocation to declare war against him, and a regard for our trade with Spain, which had been always before of great advantage to us, should have made us avoid being the first to declare war against that kingdom. Till that time Spain had always been the chief mart for our woollen manufactures; but by thus rashly declaring war against them, we shut up, in a great measure, that mart for the woollen manufactures of England, and opened it for those of France; for though we were then wise enough not to prohibit trade with Spain, notwithstanding the war we had declared, yet the war gave such an interruption to our commerce, and raised such an aversion among the Spaniards against us, that by degrees they were brought into the custom of wearing French instead of English manufactures.

I could mention many other instances, Sir, where we have injured our own trade, and promoted that of our most inveterate enemy, by ill-judged regulations, or mistaken politics; but these, I hope, will be sufficient for shewing gentlemen, how cautious they ought to be, when any new regulation is proposed with respect to trade, especially a regulation which may perhaps strip us of the only branch of trade we now enjoy without a rival, and may very probably transfer it to our enemies the French. I say, Sir, a branch of trade, which we now enjoy without a rival; for, I believe, there is a great deal more of the insurance business done now in England, than in all Europe besides. Not only the nations we are in amity with, but even our enemies the French and Spaniards, transact most of their business of insurance here at London; and I cannot think it any crime in our merchants to correspond with them on this head, no more than it was in our merchants to correspond about trade, with the Spanish merchants, during the whole time of the war in queen Anne's reign. To carry on trade for the mutual benefit of both nations, is not aiding and assisting the enemy, nor is it such a correspondence as was intended to be prohibited by his majesty's declaration of war, especially when it is such a trade as must always leave a large balance in ready money here in England.

This balance, I shall grant, Sir, may appear to be but a trifle when compared with the expence we are at in supporting the war, but the greater that expence is, the more money we are obliged to send

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out yearly on that account; surely, the more cautious we ought to be of parting with any branch of trade, which certainly leaves a balance here; and if we consider the great profits made by the insurer, the profits made by the broker or office-keeper, the profits made by the factor, and the profits made by our dealers in exchange, we cannot suppose this balance to be such a trifle, as the hon. gentleman seems inclined to represent it. For my own part, I must suppose, that it amounts to a very large sum annually, when I consider the vast sums yearly insured here, upon French and Spanish bottoms, both which I must take into the account, because, I am of opinion, that we shall lose both by this regulation.

Nevertheless, Sir, however great I may think this balance, however dangerous I may think the regulation proposed, I should readily agree to it, could I think it certain, that the French merchants would find it impossible to meet with good insurers either at home, or in any other part of Europe; but I am so far from thinking this certain, that I think the certainty lies on the other side. It is well known, that there is not a more enterprising, adventurous people in Europe than the French naturally are, nor a people that have a greater itch for every thing that looks like gaming. Their having no public insurance-office, nor any number of private insurers, in France, does not proceed from a want of rich men who would be ready and willing to undertake this business, but from the difficulty they find at present to get any employment in this way. The French merchants have been so long accustomed to our shop, and have always found themselves so honourably dealt with, that they will not apply to any other, and will rather chuse to pay commission here, than trust to any office, or any private insurer, among themselves. Therefore, while we admit them to insure here, it will never be in the power even of the government of France to set up a public insurance office, nor can any private man there meet with encouragement in this way of business. But I am convinced, that as soon as they hear of this Bill's being passed into a law, a public office of insurance will be erected at Paris, and multitudes of rich men there will undertake the business, because, after we have banished their merchants from our shop, they will apply to the shops set up in their own country, rather than to any foreign shop, they have never been accustomed to.

What are we then to do by this regulation? Why, Sir, we are to strip ourselves of a most profitable branch of trade, and transfer it to the French, who could never have got hold of it, if it had not been for this our wise regulation. And this will be the effect, not only as to insurances upon French ships, but in a very little time as to the insurances upon all the ships of Spain and Portugal; for as the correspondence between them and Paris is quicker and more certain, than the correspondence between them and London, they will apply to the offices of insurance at Paris, as soon as these offices have come into a little credit; and if a public office be set up there with a large capital, their capital will procure them credit, as soon as the office is opened.

Having thus, Sir, shewn how probable it is, that the French merchants will find an easy and secure access to insurance at home, the very moment we exclude them from it in England, I think, I have no occasion to take notice of the advantages we shall reap by the exclusion; for all those advantages are founded upon a supposition, that it will be impossible for them to find so cheap and so secure an insurance at home, as they now find in England, which is a supposition that, for the reasons I have mentioned, cannot, I think, with any reason be supposed; and if this should turn out to be the case, as I am afraid it will, we shall strip ourselves of a branch of trade by which we now make a clear profit, perhaps, of several hundred thousand pounds yearly, and transfer it to our most dangerous rival; which is not, I am sure, a proper method for bringing the war to a happy and speedy conclusion.

Having mentioned the war, Sir, I must observe that our success at sea this last summer, makes it more unnecessary for us to think of such a regulation now, than it has been at any time since the war began; and if Providence should favour us with the same success next summer, we shall have no occasion to prohibit insurances upon French ships, for it will raise the price of insurance so high, that no man either in France, or any where else, will think of sending goods by any such ship. Before a merchant sends out a cargo, he always first sits down and computes, what profit he may probably make by the adventure out and home; and if the insurance be so high, that no profit he can expect will answer it, and something more for his own

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trouble, and the use of his money, he will certainly resolve to send out no cargo at all. Therefore, if by the success of our squadrons and cruisers, we should be able to raise the price of insurance upon French ships to such a height, that no trade can bear it, we shall much more effectually and more safely put an end to the French commerce, at least in their own ships, than we can do by this regulation; and if they should fall upon any way to carry on their commerce in neutral bottoms, this regulation can no way effect it. This we should attempt; this, I am very sure, our ministers will do all that lies in their power to effectuate; and therefore, I think, we should suspend agreeing to any such dangerous regulations, till we have tried a little farther what can be done in this way.

Before I sit down, Sir, I must take notice of a suspicion, not a supposition, thrown out by the hon. gentleman, that some of our insurers have given intelligence to the French, of the stations of our men of war and privateers, in order to prevent the French ships on which they had insured coming in their way. For my own part, I never heard that any such thing was suspected; but on the contrary I have heard, that some of the richest prizes taken in this war, fell into our hands by intelligence communicated by those employed to get insurances upon them. To this I must add, that it is, in my opinion, impossible for our insurers to give intelligence of the stations either of our cruisers or privateers, because our cruisers never know their stations till they open their orders at sea, being, as I have heard, directed first to sail to such a station, and there to open their new orders; and as to our privateers, their station is always left to the direction of the captain, who may change it as often as he will, and seldom goes out with any fixt design, or if he does, he will, for his own sake, as well as for the sake of his owners, let no one into the secret.

I must therefore be of opinion, Sir, that neither in this respect, nor any other, our insurers can do us any prejudice if they would; nor can they, I think, give the French commerce any advantage, but such a one as the French merchants may meet with at home, the moment we exclude them from it here. How far the popular clamour without doors may prevail upon gentlemen within, I do not know; but as I look upon the expedient proposed as a very dangerous one, and as an expedient that will certainly be attended with an advantage to the French trade and a loss to our own: as, I hope, and not without just grounds, that the advance of the premium will soon put an entire stop to all French insurances, here or any where else, and consequently to all the French commerce in their own shipping, I must be against what is proposed; and though I was sensible of its being at present a little unpopular to oppose such a proposition, I thought I was, in duty to my country, obliged to declare my sentiments openly and freely upon the subject.

Mr. Alderman *Janssen*:

Sir; Whatever may have been the consequences of any former regulation with regard to trade, I am persuaded, no bad consequence can be apprehended from the regulation now proposed, because it proceeds from no particular or provincial, but solely from a national consideration; for between these two sorts of considerations we ought carefully to distinguish, as often as we hear any new regulation proposed with respect to our trade or commerce. Such as proceed from any particular or provincial considerations are, in their consequences, often found to be prejudicial to the trade of the nation in general; but this can hardly be when the national interest is the sole foundation for what is proposed. By this rule let us examine the instances mentioned by the hon. gentleman who spoke last, and we shall find, that both of them proceeded from provincial considerations; for such I must call all such as relate only to the particular interest of any one part of the British dominions, especially when it is proposed to promote the particular interest of one part or province by doing an act of injustice to another. I say, Sir, an act of injustice, for such I must call all prohibitions upon the commodities, manufactures, or trade of any one part of the British dominions, unless that prohibition be apparently necessary for the good of the whole.

With regard to trade, Sir, there is a very great difference between encouragements and prohibitions: we may, by premiums and other favours, encourage the manufacture or produce of one particular sort of commodity in one province more than in another, in order to propagate the manufacture or produce of every sort of commodity in some part of our own dominions, because such encouragements can

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never tend to enable foreigners to rival, out-do, or undersell us in any sort of manufacture or produce; but when we prohibit the manufacture or produce of any one province, in order to enable the people of another province to sell their manufacture or produce at a dearer rate, it must necessarily enable foreigners to rival us at all foreign markets, and perhaps, at last, even in our own markets; for if foreigners should sell manufactures or produce of any kind at a much cheaper rate than our people do those of the same kind, it will hardly be possible for us, by the most severe laws, to prevent their being clandestinely run into our dominions, and consumed by our own people.

From hence, Sir, we may see the mistake we fell into by prohibiting the importation of Irish cattle, and the exportation of their woollen manufactures; and we may likewise see the cause of that mistake. It proceeded from a provincial partiality, which must be allowed to be laudable, but was, at that time particularly, imprudent; because our neighbours upon the continent, especially the French, had by that time become sensible of the great advantages accruing to a country from trade and manufactures; and were taking every method in their power for becoming our rivals. But the regulation now proposed, proceeds from no provincial partiality or particular consideration. It is founded upon the interest of the nation in general, and upon a maxim which never was controverted, that we ought to take every method in our power for distressing the declared enemies of our country. Will any one say, that the putting of an entire stop to the French commerce, would not be a national benefit for England? Will any one say, that the preventing the French merchants from being able to find any insurers, would not greatly distress the commerce of that nation? Neither of these, Sir, can possibly be denied; and the only way of evading the argument is by saying, that should we put a stop to all insurances upon French ships here in England, their merchants would find insurances either at home, or in some other part of Europe; but those who know how difficult it is to introduce and establish any new branch of business in a country, must be convinced, that during the war it would not be possible to bring the business of insurance to perfection, either in France or any where else; and in the mean time, the French must either put an entire stop to their commerce, or multitudes of their merchants would be ruined by the captures we may hereafter make.

The great and chief advantage derived from insurance is this, Sir: it enables men of small capitals to engage in, and carry on a foreign commerce, without risking their capitals, or endangering their credit. By this method every merchant, who sends an adventure to sea, contributes to the general loss, according to the value of his adventures, so that the loss can never fall too heavy upon any one, nor is any man's credit endangered by his having a great part of his property on board one fleet, or one particular ship; but if there were no such thing as insurance, every man would be obliged to bear his own loss, which would render him bankrupt, if he were a man of a small capital; and when it is known, that such a man has embarked a great part of his capital in one bottom, his credit must be at a full stop till the fate of that voyage be known, let it be never so tedious; so that in the mean time, he can provide for no new adventure, nor make use of his credit for engaging in any new scheme of trade, let it be never so advantageous; whereas, when every merchant has free access to insurance, and with insurers whose punctuality may by experience be depended on, the loss upon any voyage, by capture or shipwreck, no way affects the capital of the adventurers; nor is the credit of any one of them in the mean time diminished. As every neighbour knows he has a large capital at sea, and every shilling of it well insured, they will be ready to trust him with goods, or even to lend him money for providing for a new voyage, or for engaging in any new scheme of trade, because they are sure of being repaid upon the return of the ship, or upon the first certain account of her being lost.

Thus, Sir, it is evident, that a ready access to such insurances as may be depended on, not only promotes commerce, by enabling men of small capitals to engage in it, but increases private credit, and thereby enables every man concerned to extend his commerce much farther than he could do without such an assistance. As this is so evident, how preposterous is it in us to allow the commerce and credit of the French, to be not only secured, but promoted and increased, by having their ships insured here in England during an open war between the two nations? Supposing it were possible, nay, supposing it

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probable, that the French might be able to find insurances at home, or in some other part of Europe, upon our putting a stop to their insuring here, yet it is certain, that these French or foreign insurers could not for some years gain such credit and confidence among the merchants and traders of France, as the English insurers now have; the consequence of which would certainly be, that many of those now engaged in the foreign commerce of France, would either retire from all business, in order to live upon the little fortunes they had acquired, or betake themselves to other employments, because they could not trust to these new insurers; and even those who continued in trade, would not have such credit as they have at present; for the credit of a merchant, whose chief stock is at sea, depends more upon the credit of his insurer than upon his own.

Thus even supposing that the French should find insurances, either at home or in some other country, yet by our preventing their being able to insure here in England, both their commerce and credit would, for three or four years at least, be greatly distressed and greatly diminished; and this would raise such a clamour among the people, and so clog the wheels of their government, that their court, notwithstanding their success at land, might find themselves obliged to hearken to reasonable terms of peace. But on the other hand, supposing that they should not be able to find any responsible insurances either at home, or in any other country, in this case the French merchants must either resolve to give up all commerce by sea, or every one of them must resolve to carry it on at his own risk. If the former resolution should be taken, the greatest part of the present commerce of France would center in England, and their colonies in America would in a year or two be so much distressed for want of provisions, that they would be glad to surrender themselves to us: if the latter should be the resolution generally taken by the French merchants, every French ship made prize of by our men of war, or privateers, would occasion two or three bankruptcies in France, and these frequent bankruptcies would soon put an end to their persisting, or being able to persist, in such a resolution.

To evade this argument, I know it is said, Sir, that the French might resolve to carry on their commerce, and supply their colonies, by means of neutral ships, which, notwithstanding this Bill, might be all insured in England; but as soon as this should appear to be their resolution, we might easily put an end to it, by a short Bill for prohibiting the subjects of this kingdom to insure upon any ship bound to or from any port in the French dominions; or we may provide against such a resolution by a few words in the present Bill: and with regard to their colonies, I do not see how they could be supplied even by means of neutral ships; for as their colonies can be supplied no way but by sea, if we should block them up by sea, in order to force them to surrender for want of subsistence, we would have a right, by the law of nations, at least to seize, if not confiscate, every neutral ship that attempted to carry them any provisions: nay, as the war is most evidently unjust on the side of France, we should, according to the opinion of the learned Grotius, have a right not only to seize, but to confiscate every such ship and cargo, by way of punishment upon those who endeavoured to support our enemies in such an unjust war against us.

In short, Sir, I think, there is nothing more evident, than that, by prohibiting the insurance of French ships, we shall certainly distress and diminish, if not entirely ruin, both the commerce and credit of the French; and as either of these would be a great advantage to us, not only in our trade, but in the prosecution of the war, what should hinder us from seizing upon this advantage? Why, it is said, you will thereby ruin a very beneficial branch of trade, which you now possess without a rival, and perhaps transfer it to your enemies the French. Sir, I should be glad, the gentlemen who say this, would let us know, how we came to get possession of this trade without a rival; for that we were not the first projectors of this sort of trade, that there were insurers in other countries before there were any in England, is what cannot be doubted. Have not we engrossed this trade by the same means, by which every other trade may be engrossed, that is, by selling cheaper, and performing our contracts more religiously, than any of our neighbours? If by this means we got possession of the trade: if our insurers insure at a cheaper rate, and in case of a loss, pay more punctually, than the insurers of any other country are found to do, we shall by the same means recover the possession whenever we please. Therefore, if the trade were more bene-

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ficial than it really is, we need not be under any great apprehension of losing it, or any doubt of recovering it whenever we please. By agreeing to the regulation proposed, we shall only lose that part of this branch of trade which at present happens in the main to be a disadvantage to us, I mean the insurance upon French ships; for as to Spanish, Portuguese, and other foreign merchants, they will never go any where else, as long as they have insurances cheaper and more punctually complied with here, than they can expect in any other country; and even as to the insurance upon French ships, we shall be able to recover it as soon as it is proper for us to do so; that is to say, as soon as we have, by distressing their trade and their colonies, compelled them to submit to reasonable terms of peace; for this, I am afraid, is the only method now left, by which we can put an end to the war without dishonour as well as disadvantage.

But, Sir, the great benefit accruing to the nation from this branch of trade has been so much insisted on, that, I hope, you will give me leave to examine a little into the merits of this argument. Surely, no gentleman supposes, that all the money taken in premiums upon insurance remains here in England: every gentleman, who has ever in the least considered this branch of business, must know, that this whole money, excepting the profit of the insurer, and a trifle to the office-keeper, must be sent out again in order to pay the loss sustained upon those insured ships that were lost or taken by the enemy; therefore no more can be supposed to remain in the nation, than what I call the profit of the insurer, and the trifle paid to the office-keeper.

In order to explain what I mean by the profit of the insurer, I must observe, Sir, that when a ship is to sail from any one port to another, a calculation has been made from experience, how many chances she may have for getting safe to her designed port, and how many are against her, in order to settle the premium for insurance. I shall suppose, for example, that of 100 chances she has 99 for getting safe to her designed port, and but one against her getting safe. In this case, if the insurer were to take but one per cent. premium, and in case of a loss to pay the whole sum insured, he would, according to the doctrine of chances, have no profit; but for his trouble he either takes a little more than one per cent. or is allowed to make a deduction of so much per cent. in case of a loss, and this surplus or deduction is what is called his profit, which, from conversation with many dealers in this way, I have heard generally reckoned at about one per cent. of the sum insured; so that an insurer, who insures yearly to the amount of 100,000*l.* cannot justly be reckoned a gainer of above 1,000*l.* a year; because if he gains a great deal more than this in one year, he may be a considerable loser the next, and consequently in a course of years he cannot, according to the doctrine of chances, be supposed to have got above 1,000*l.* a year, one year with another.

From hence, Sir, we may compute, what the nation gets yearly by French insurances; for if we suppose, that the sum total of all the insurances made here in England upon French ships, amounts to one million sterling yearly, we cannot suppose, that above one per cent. the insurer's profit, or 10,000*l.* yearly remains here in England, besides what is paid to the office-keeper for the policy, which is 4*s.* 6*d.* for each policy, or 225*l.* for the whole, supposing that a distinct policy has been made out for each 1,000*l.* It is true, Sir, our insurers receive yearly in premiums a very large sum, perhaps 200,000*l.* but from the common course of such affairs, and according to the doctrine of chances, we must suppose, that, one year with another, there is 189,775*l.* of this 200,000*l.* paid back to the French, for making good the losses they have sustained by ships taken or lost, which were insured here in England.

Is this, Sir, such a national benefit, is this such a considerable profit, that in order to preserve this, we should avoid doing what may occasion the total ruin, what will certainly occasion a very great diminution of the French commerce and credit? Surely, Sir, it would be prudent in us to forego this inconsiderable national advantage, during the war at least, if it were for nothing else but merely for the sake of distressing the enemy, and supposing that our commerce could receive no increase by the ruin or diminution of that of the French; but when we consider, that a great part of that commerce, which may be hereby lost to the French, will accrue to this nation, we must see, that we shall, by the increase of our commerce, get a great deal more, than we can lose by prohibiting the insurance of French ships; for if we suppose, that the stock

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now employed by the French in commerce amounts to two millions sterling, that by our prohibiting the insurance of their ships, this stock should be diminished but one fourth, and that one half of this fourth should accrue to this nation, we must then grant, that our merchants would employ in commerce at least 250,000*l.* more than they do at present; and as we cannot suppose, that our merchants, one with another, get less than 10 per cent. per annum upon the stock they employ in commerce, we must conclude, that an annual profit of 25,000*l.* would accrue to the nation by this increase of our commerce; whereas, by a total and effectual prohibition of insurance upon French ships, we should lose but 10,225*l.* yearly; so that instead of being losers, I think, it is evident, that upon the whole we shall be gainers by this prohibition; and if we should thereby bring the war to a period but one year sooner than we can do otherwise, we shall save a sum of 3 or 4,000,000*l.* at least, besides having a better chance for obtaining a safe and honourable peace.

I shall grant, Sir, that by means of our squadrons, our cruizers, and privateers, we may very much distress the French trade, and thereby raise the premiums upon insurance to a monstrous height; but whilst their merchants are secured as to their capitals, and their credit supported by our insurers, they will carry on a trade, and their colonies will be supplied, not only with provisions, but with ammunition and warlike stores; for it is impossible for us to intercept all the trading ships they send out; and though the high premiums they pay for insurance, may enhance the price of their goods, so as that they cannot sell them at any market, where they can be rivalled by foreign nations, yet at all the markets where they cannot be rivalled, particularly in their home markets for plantation goods, and in their plantations for their home produce, they may sell, and the people must buy, let the price be what it will; by which means they may carry on a trade very profitable to Old France, especially as the Spanish American dominions are now open to them, and to them only.

Thus I think it is plain, Sir, that we have no other way of ruining the French trade or plantations, but by preventing our insurers from insuring upon any French ships; and from the present state of affairs in Europe, I think, it is equally plain, that there is no other way by which we can compel them to submit to any reasonable terms of peace; therefore I do most heartily concur with my hon. friend in what he has been pleased to propose.

The *Attorney General:*

Sir; I find it is granted on both sides, that those regulations which proceed from any particular or provincial consideration, may very probably be injurious to the trade of the nation in general; and I believe, it will not be denied, that regulations may proceed from a seeming national view, without any particular or provincial consideration whatever, and yet those regulations may be such as will certainly in their consequences be found to be extremely prejudicial to our trade in general. Of this last sort, I am apprehensive, the regulation now proposed may be found to be. It is founded, I grant, upon a very flattering national view: to ruin the commerce of our enemies, and increase our own, is a view which must always be alluring and popular; but I am much afraid, we shall in the event find ourselves disappointed as to both. What then will be the consequence? Like the dog in the fable, by snatching at the bone we fancy we see in the water, we shall lose that which we now hold in our mouth.

That the trade of insuring is a trade which we now hold almost without a rival, and that it is a profitable trade, is, I find, Sir, granted even by the most zealous patrons of this regulation, though they have endeavoured to extenuate the profits of it as much as they could; and therefore I must beg leave to give you a new state of the profits of this trade, before I attempt to shew, that by this regulation you may drive the whole trade of insuring from this country, and transfer it to the French, who are our most dangerous rivals in every branch of business. As I expected that some question like this would come before us, I have been at a good deal of pains to get a thorough insight into the nature of insurance; and from the information I have had, I shall with the utmost impartiality lay a state of it before you. As to the premiums received by our insurers, I shall most readily admit, that it would be ridiculous to state the whole to the profit of the nation, or to suppose that every shilling of them remained here in England. To be sure, the greatest part of them must be sent again abroad,

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to make good to the foreign merchants the losses upon those ships lost or taken by the enemy, which were insured by our insurers, therefore no greater part of them can remain here, than the net profits got by such of our people as are concerned in that business; but I shall shew, that some other persons are concerned besides the insurers and office-keepers; and that both the insurers and office-keepers get more clear profit than what has been stated by the gentlemen who have spoke upon the other side of the question.

As to the profit of the insurer, Sir, I shall grant it to be only that which he receives more than he is entitled to by the doctrine of chances; but I cannot admit, that an insurer expects no more than one per cent. profit upon the sum insured, nor can I suppose, that any man would employ and risk both his time and his money in such a business, if he could expect no greater profit; for that an insurer must always have a stock of ready money at command, in order to answer losses, as they occur, is as evident as that a banker must always have a stock of ready money in his shop, to answer such of his notes as shall be brought there for payment. I therefore must suppose, that a man who insures to the amount of 100,000*l.* yearly, must have a stock of ready money of at least 20,000*l.* and surely no man would employ such a stock in trade where he risks the whole, besides his time, if he could expect no more than legal interest, or 1,000*l.* per annum, by his trade. Besides, if we attend to the premiums that are paid, and the ships that are taken or lost, we must suppose, that the insurer has a great deal more than one per cent. profit upon the sum insured. For example, let us consider the West India trade: the premiums upon British ships bound thither without convoy, now go from 25 to 30 per cent. Can we from late experience suppose, that at least a fourth, or very near a third, of all such ships are lost or taken by the enemy? Again, the premiums paid upon French ships bound to the West Indies without convoy, now go from 30 to 35 per cent. and now indeed the premiums even upon those that are to sail under convoy happen to go at very little less: can we suppose, that at least one third of all such French ships are lost or taken by us? I am sorry, Sir, it is not so; but though we have been as watchful, and have done as much as it was in our power to do, I am sure, no such thing can from experience be supposed; and therefore I must suppose, that our insurers get a great deal more than one per cent. profit upon the sum insured.

As most merchants and insurers, Sir, pin their faith blindly upon a few leaders, with respect to the premiums, without being themselves at the pains to make any calculation of the chances; and, as it is impossible to make any certain calculation of the chances for and against a ship's getting safe into her intended port, because no proper postulatums can be certainly fixed on; therefore it is impossible to determine, with any certainty, the profit of the insurer, according to the doctrine of chances; but if I suppose it to be 3 per cent. at an average, besides the 2 per cent. deducted upon a loss, I do not believe I shall exceed what they really have. I say, at an average, because upon high premiums they have a great deal more, and upon low premiums a great deal less.

Thus, Sir, I think it is plain, that as to the profits of the insurer, we must state them a great deal higher than they have been stated by the advocates for this regulation; and as to the office-keeper, besides the 4*s.* 6*d.* for the policy, he has 10*s.* per cent. from the insured upon settling losses, and the insurer allows him to retain 1*s.* in the pound, or 5*l.* per cent. on all such premiums as he receives, which certainly makes the insurer insist upon so much a higher premium, and therefore falls really upon the insured, though it be paid or allowed by the insurer. Therefore we must likewise state the profits of the office-keeper at a much higher rate than they have been stated by the gentlemen of the other side; and consequently, the loss which the nation must sustain by a prohibition of all insurances upon French ships, will amount to a much larger sum yearly, upon these two articles alone, than these gentlemen have been pleased to compute it at.

But, Sir, the insurer and office-keeper are not the only persons that get by foreign insurances; for as foreign merchants must employ factors here, to insure for them, and as the money for paying the premiums must be remitted here, and the money for paying the losses must be remitted back again, we must perceive, that besides the insurer and office-keeper, there must be a factor and a dealer in exchange residing here concerned in every foreign insurance. To the fac-



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tor the foreign merchant allows a half, or 10*s.* per cent. on the sum insured, and one, sometimes two per cent. on receiving losses; and a dealer in exchange has generally a half, or 10*s.* per cent. on every sum he pays or remits; so that the profits of the factor and dealer in exchange, as well as the profits of the insurer and office-keeper, must be brought into the account of the loss we shall sustain by a prohibition of insurances upon any French ships, or any ships bound to or from France, or any of the French dominions, settlements, or plantations; and if we should likewise by this regulation deprive ourselves of all other foreign insurances, our loss will be much greater.

What this loss may amount to yearly, it is impossible to determine, because it is impossible to know what sums are insured by our private insurers, and because of the many different premiums that are paid, according to the voyage on which the ship is bound; but as a calculation has been attempted on the other side of the question, with regard to French insurances, I shall likewise attempt one on mine; and for this purpose I shall suppose, that upon French ships bound to or from the West-Indies or America, we insure at least a million yearly, which must be allowed to be a moderate computation, when it is considered, that the French certainly trade to those places for above 500,000*l.* yearly, which is more than a million out and home, and that their merchants insure very little any where else but in England.

Now, Sir, upon this million, according to the present rate of insurance, they pay from 25 to 35 per cent. but I shall put it at a medium of 30 per cent. so that our insurers receive yearly upon this article alone 300,000*l.* and pay back for making good the losses about 250,000*l.* Upon these several sums let me state the profits of the several persons concerned, according to the rules I have mentioned, as follows: The insurer's profit, at 3*l.* per cent. upon the whole sum insured, is 30,000*l.*; the office-keeper's allowance, at 5*l.* per cent. upon the premiums received, is 15,000*l.*; ditto's allowance, at 10*s.* per cent. upon settling losses on 250,000*l.* is 1,250*l.*; ditto's office fees, at 4*s.* 6*d.* for each policy, reckoning one policy with another at 5,000*l.* is 45*l.*; factor's commission, at 10*s.* per cent. on the sum insured, is 5,000*l.*; ditto's commission on recovering losses, at $1\frac{1}{2}$ per cent. is 3,750*l.*; profit of the dealer in exchange on whom the bills are drawn, for paying the premiums, being 10*s.* per cent. on 300,000*l.* is 1,500*l.*; ditto's profit on remitting the money to pay the losses, being 10*s.* per cent. on 250,000*l.* is 1,250*l.*; to which I must add the two per cent. deducted by the insurer on paying losses, which on 250,000*l.* amounts to 5,000*l.*; the total of all which profits amounts to 62,795*l.*

I do not pretend, Sir, that these calculations are very exact, but upon the whole, I believe, we may from thence reckon, that our people get yearly a clear profit of near 60,000*l.* by insurance upon the French West-India and American trade alone; and suppose they get but 40,000*l.* more yearly by insurances upon all the other branches of the French commerce, and upon all ships bound to or from France, or any of the other French settlements, the whole will amount to near 100,000*l.* yearly, which is a national advantage we ought not rashly to part with, at a time when we are sending out 3 or 4,000,000*l.* yearly for maintaining armies, and paying subsidies on the continent.

This, Sir, is a loss which we shall certainly incur, but there is another, and a much greater loss which we may perhaps incur, by agreeing to this regulation, and that is, the total loss of the business of insuring upon any foreign ships, or even upon any of our own; for by this prohibition we may throw such a damp upon the spirit of insuring, as may totally extinguish it in this nation. What is it, Sir, that makes insurances cheaper and more punctually complied with, in England, than any where else? Is it not the multitude of insurers, and present prevalence of a spirit for that business among our people? If you cramp the business by prohibitions, you will extinguish the spirit here, and you may, in my opinion you certainly will, raise it in France. What will the consequence be? You will never be able to recover what you have lost by your prohibition, nor will you be able to preserve what that prohibition had left you; and what is still worse, you will be entirely defeated in your design of distressing the enemy's commerce.

Sir, the court of France, like other courts, do not see a great way before their nose in matters of trade; if they had, they would have taken care not to have been so rash in declaring war against this nation. But by this prohibition we shall place their interest, with regard to the business

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of insurance, in so strong a light before them, and so near their nose, that they cannot miss seeing it; and we know what an influence that court has upon the people. Let the king of France but talk of insurances in his drawing-room: let him but say, that it is a business no way inconsistent with noblesse: let him but insinuate that he would shew favour to such as engaged in it; and the whole French nation would become insurers. Can it be supposed, that credit would not immediately be given to a policy underwritten by a man of a great estate in money as well as land, especially in France, where matters of trade and commerce are highly favoured by their laws? Can it be said, that there are not a great many such men in France? and if such men should become insurers, would not our agreeing to this prohibition necessarily throw plenty of business into their hands? They would soon find the sweets of the business; and their success would encourage others to become adventurers: so that in a few years the French might become the chief insurers of Europe.

To conclude, Sir, the loss which this nation must in one case certainly incur, the immense loss it may in other cases be exposed to, and the precariousness of the benefits expected from this regulation, make me think it an experiment which we ought not to meddle with, especially as we have already in a great measure ruined the French commerce by our men of war and privateers, and may by the same means prevent the supply of their colonies, whenever we think proper to do so. Therefore, however unpopular it may be at present, I must refuse my assent to what is now proposed.

The Bill was then committed, and passed afterwards without a division.

*Petition from the City of London against the Bill for Naturalizing Foreign Protestants.**] Dec. 4. A Bill was brought into the House of Commons by Mr. Nugent for naturalizing Foreign Protestants. On the 16th the City of London presented a Petition against it, setting forth: "That the Petitioners having observed, by the votes of this House, that a Bill hath been brought in for a general Naturalization of foreign Protestants, think it their indispensable duty to represent the mischiefs that they apprehend will flow from this Bill, if passed into a law: and that the petitioners as citizens of London, will be particularly affected by such a law, by the decrease, if not total loss, of the duties of package, scavage, portage, and balliage, of the goods of foreign merchants, granted by many royal charters, and confirmed by several acts of parliament: and further expressing the apprehensions of the petitioners, that the Naturalization of all foreign protestants, indiscriminately, is more likely to increase the poverty, than make any addition to the wealth, of this nation; for that neither the rich nor the industrious amongst them need any such inducement, as the latter never want encouragement, nor the former the very privilege in question, when they apply to parliament for it: and representing to the House, that a like law being attempted in the reign of the late king William, it was rejected on such national considerations, as, it is presumed, can never escape the attention, nor lose the regard of this House; and the experiment being made, by passing a law for that purpose, in the reign of the late queen Anne, it was found so detrimental to the public interest that it was shortly after repealed, and not without some reflections on the mischiefs it had produced: and that as naturalization cannot convey to foreigners a true knowledge of our happy constitution in

* "As the ministry encouraged every person, without distinction, to propose whatever he thought was for the benefit of the public, a scheme was at this time set on foot, and was patronized by some of the most enlightened understandings in the kingdom, for a general Naturalization of foreign Protestants, and a Bill was brought into the House of Commons accordingly. The arguments for this Bill were extremely plausible, as it tended to replace the great waste of people which the war had made, and to introduce new manufactures into the kingdom, as many industrious individuals in foreign parts would be thereby encouraged to settle in England. A great many pernicious consequences were instanced, and proved to proceed from exclusive charters and privileges; and the good effects of a universal comprehension of foreign Protestants were set forth in many elaborate speeches and writings. Notwithstanding this, the sheriffs of London presented a petition against it in the name of the city. This petition was warmly supported, and the minister, who professed himself entirely neutral in the question, began to apprehend that the Bill, if passed into a law, might be unpopular, and consequently might hurt the interest of the government, which was then very high in the city of London: he therefore agreed it should be dropt for that time." Tindal.

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church and state, or give them such zeal and affection for it, as may be requisite for maintaining and defending it, and as those who have grown up under arbitrary government, may be fittest to answer arbitrary purposes, too much caution cannot be used in a matter of such great importance: and therefore praying, that the said Bill may not pass into a law."

## 1748.

*Debate in the Commons on the Bill for Naturalizing Foreign Protestants.*] February 4, 1748. The Bill for Naturalizing Foreign Protestants was read a second time, and a motion was made that the Bill be committed, upon which a debate arose.

The Arguments made use of in favour of the Bill were chiefly these:*

Before the reign of Henry the 7th we had very little trade, commerce, or manufactures among us, and the little we had was generally carried on by foreigners, who had great privileges granted them by several of our kings, for encouraging them to come and settle amongst us. Almost all those materials for manufacture which nature has blest us with, were carried out and manufactured in foreign countries; but the peace of the country being established by that wise prince, and the peace of our neighbours, both in Germany and the Netherlands, being very much disturbed, many merchants and tradesmen came from both these countries and settled themselves here; and when the reformation was established under Edward the 6th, it brought crowds of foreign Protestants over to this country, who were allowed many privileges by that young monarch, and who, by degrees, taught our people to be industrious, and to make the proper use of our natural produce.

From them our people learned industry: by them we were taught almost all the manufactures now established amongst us; but still our commerce was mostly carried on by foreigners, particularly the corporation of German Merchants settled in the Steel-yard, London; for when that corporation was dissolved in Edward the 6th's time, it was proved, that they had in the preceding year, 1551, exported 44,000 cloths, and that all the English merchants together had exported but about 1,100. The riches acquired by that company, and by other foreigners settled amongst us, had taught our English gentlemen, how much better it was to breed their younger sons up to merchandising, than to breed them up to nothing but hunting and fishing; and therefore, as soon as our own countrymen were enabled, by the dissolution of that company, to engage in commerce, many of the younger sons of our best families began to be bred merchants; so that it may be justly said, we owe not only our manufactures, but our commerce, and consequently our naval power, to those foreigners that have from time to time been invited to come and settle amongst us.

Even in our own time, or at least within these last 60 or 70 years, this nation has reaped great advantage by the foreigners that have settled amongst us, and are now become part of our own people. When I say this, every gentleman must suppose, I mean the French refugees. How many different sorts of manufactures have they introduced? How many others have they greatly improved? Before their arrival, our silk manufactures rarely appeared even here at home, and never at a foreign market; whereas we now not only supply ourselves, but send out considerable quantities yearly. Our manufacture of hats, of glass, of toys, and several other sorts of manufactures, owe chiefly to these foreigners, the great perfection they are now brought to. From them we have learned art and ingenuity, and I wish I could say frugality; for in this we are still wanting, which is the reason of our being now so much rivalled in trade and manufactures by some of our neighbours.

In this island we have, from our situation, from our form of government, and from the nature of our soil and climate, many and great advantages; but with all these advantages, it will be impossible to preserve our trade and commerce, if our neighbours far exceed us in frugality and œconomy. From the figure we have of late years made in Europe, our neighbouring states are all become sensible of the additional strength a nation may acquire by a flourishing trade. This has set every one of them upon contriving all the methods in their power to encourage trade and manufactures within their respective territories, and the more they succeed, the more our trade must decay; for if each of them should succeed so far only, as to furnish themselves with what manufactures they stand in need of, the consumption of our manufactures would then be confined

* From the London Magazine.

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to our own island; and in that case, many of our poor manufacturers would be thrown out of employment, because our own consumption alone would not furnish work for the great number we have now amongst us. This would be attended with many fatal consequences: our cities and towns would become less populous; our land-rents would be diminished, by the farmers not having a sufficient vent for the produce of their farms; and, at the same time, our poor's rates would increase all over the kingdom. Our merchants, who are now employed in exporting our manufactures to foreign markets, would be obliged to give over trade, and retire, to live penuriously in the country, upon the interest of their money, by which many houses would be thrown waste in all our sea port towns. The ships employed in exporting our manufactures, would be broken up, or sold to foreigners; and many of our seamen would be forced to betake themselves to other employments, or to go into foreign service.

These, and many other misfortunes, would be the certain consequence, should all our neighbours succeed so far in their endeavours, as to be able to furnish themselves only with what manufactures they stand in need of; but one of them has already succeeded much farther. The French are now able, not only to supply themselves, but are become our rivals in every market, and in every sort of manufacture. How shall we remedy this misfortune? How shall we prevent its becoming still greater? There is no way of preventing it, but by propagating frugality among our people, especially among our poor labourers and manufacturers; for if the French live more frugally than we do, their workmen will work for less wages, their master trademen, and merchants, will sell at less profit, and if they do, they will certainly, at last, beat us out of every foreign market. To preserve our trade and commerce, is, surely, a question of very great importance; but the question now before us, is still of much greater: it is not only to preserve our own trade and commerce, but to prevent their being transferred to our inveterate enemies.

In many branches of manufacture, I am sensible the wages of our poor labourers are so low, even in this country, that they are forced to live in a very parsimonious manner; and, I believe, neither the master manufacturer, nor the merchant exporter, insist upon a very extravagant profit; but in France, I am convinced, that the former live in a manner still more parsimonious, and that the latter trade at a less profit, otherwise it would have been impossible for them to have improved their trade and commerce so much as they have done within these last twenty or thirty years. Considering the many natural advantages we have, especially with regard to woollen manufactures, besides that of being in possession of the trade, it would have been impossible for the French to have undersold us at any foreign market, if there had not been a fault somewhere in our conduct. But the truth is, after we once got possession of trade and manufactures, we were for a long time without any rival but the Dutch; and during that time, both the wages of the workman, and the profits of the merchant, were so high, that they first encouraged the French to set up manufactures, and afterwards enabled them to rival us at foreign markets; and as our merchants had been accustomed to high profits, and our workmen to high wages, or, at least, what may be called high in comparison with the French, they cannot as yet find in their hearts to lower their profits or their wages, so as to put our manufactures upon an equal footing with the French at foreign markets, nor, I fear, ever will, till we have lost, and the French have acquired, every branch of trade we are now possessed of, except that to our own plantations; and as the French improve in commerce, and we decay, their naval strength will increase, ours will diminish, so that at last they will become superior to us at sea, soon after which we may expect an unwelcome visit from them here in our own island, which would then become the seat of war, unless we should be such cowards, as to submit tamely to the French yoke.

Having thus laid before you the danger we are exposed to, and the cause of that danger, every one must see, that the most ready and effectual method for removing that cause, is to invite industrious foreigners to come and settle amongst us, by passing a general act for the naturalizing of all such foreign Protestants as shall come to settle in this island. I do not desire that we should run into such an extravagant fit of charity as we run into in the year 1708, when we not only passed a Bill for a general Naturalization of foreign Protestants,* but put ourselves to a great

* See Vol. 6, p. 780.

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expence in bringing over a number of poor Palatines, who could not be at the expence of transporting themselves; and who, when they arrived, were found to have neither industry nor ingenuity. All I wish is, to enable such foreign Protestants to come and settle here, as are able to pay for their passage, and to support themselves after their arrival, without putting themselves to the heavy charge of an act for their naturalization, which is a charge that no working tradesman is able to bear, and a charge that even moneyed men and considerable merchants would be glad to be free from.

As to the latter, I shall grant, that a general Naturalization Bill is not absolutely necessary, because every one of them may easily spare the expence of a particular act of parliament; but my chief aim in proposing such a Bill, is to bring over poor manufacturers and mechanics, who can pay for their passage, and support themselves by their labour, but cannot afford the expence of particular Naturalization Bills. These are the men we stand most in need of, because they would in my opinion, not only teach our lower sort of people to be more frugal and parsimonious, but render it necessary for them to be so. As they have, from their infancy, been bred up to a harder way of living than is usual among such sort of people in this country, their spare way of living would enable them to work for less wages, and this would necessarily, in a short time, reduce the price of wages even among our own people, in all those branches of manufacture, where the wages of journeymen are higher here than among our rivals the French. To this I must add, that many of these foreign journeymen would, in time, become masters, and would probably sell the produce of their journeymen's labour at a less profit, than our master-tradesmen do at present, which would, in time, bring all our master-tradesmen to sell to the merchant-exporter at as small a profit as they now do in France, or any other country.

In all countries the body of the people are thoughtless and inconsiderate: they have neither time nor capacity to consider things so as to foresee remote consequences: this is the province of their magistrates and lawgivers; and when they foresee any fatal consequence, it is their duty to provide against it, even though the provision necessary for that purpose may be at the time a very unpopular one. A magistrate who does his duty in this respect, is the 'Vir justus et tenax' so beautifully described by Horace, and he who opposes it merely for gaining a temporary esteem among the people, may justly be called a popular sycophant.

I know it may be objected and asserted, that our poor people are already as industrious and parsimonious, and will work for as low wages, as the poor people in any other country. To this I reply, that the late success of the French manufactures is with me a demonstration of the contrary: for they undersell us at every foreign market. But for the present, I shall grant this assertion; for supposing it to be true, the Bill I propose, with regard to foreign workmen, will have no effect. Notwithstanding our general naturalization, none of them will leave their native country, unless they expect to get higher wages or to earn more by their labour here, than they can do, in their own country. But it can do us no harm to try the experiment: if it be true, therefore, that foreign workmen are more parsimonious, and will work for less wages than our own people, the Bill will be of great advantage to us: if the contrary of this be true, the Bill can do no harm; because, with regard to the bringing of foreign workmen hither, it can have no effect. Is not this as strong an argument as can be thought of for our bringing in and passing such a Bill?

But beside foreign workmen, there is another sort of people whom we ought to invite, and even tempt to settle here, if possible: I mean those who have an interest in our public funds. Every one knows, that there is a vast sum sent out of this nation yearly for paying the interest due to those proprietors of public funds who live beyond sea. Every one knows, that this sum has of late been vastly increased, and it will, probably, yearly increase, unless we can tempt many of those proprietors to come and settle here. This annual export is a heavy drawback upon our general balance of trade, and if it should once come to exceed that balance, our ruin may be slow, but it will be certain: our national stock of gold and silver must, in a course of years, be entirely exhausted; and this course of years will be longer or shorter, in an exact proportion to the excess of this export above our yearly import by the general balance of trade.

The Arguments made use of against the Bill, were chiefly these:

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First, it was granted, that in the reign of Edward the 6th, when the Reformation was introduced, and in the reign of queen Elizabeth, when it was established, many foreign manufacturers and artificers were, on account of their religion, obliged to come and settle in this country: and, that from them we reaped many advantages, because some of them were greater artists than any we had then amongst us, and consequently taught our people to bring several branches of art and manufacture to a greater perfection: and, it was also granted, that we reaped the same benefit from the French refugees who came to settle amongst us. But it was denied, that our people learned, or had occasion to learn industry or frugality from either. They must have learned both before the reign of Edward the 6th, otherwise our merchants could not have exported such quantities of cloth as appears to have been then exported; for this export is an infallible proof that they undersold the Flemings, who were then in possession of the trade, and this they could not have done, unless our people had been both industrious and frugal.

Industry and frugality do not require any foreign examples: they are the necessary consequences of wise regulations and good government. The people of a country will teach one another to be industrious and frugal, as soon as they find themselves secure in their property, and deprived of all hopes of subsisting by any other means. In the infancy of any particular branch of business, when there is a want both of masters and working tradesmen, the former may insist upon high profits, the latter upon high wages; but this will soon cease to be the case; for as in peaceable times the people of all countries, where the government is tolerable, increase faster than employment can be found for them, and as people naturally run into that business which appears to be the most profitable, that branch of business, like most others, will soon be overstocked, without any accession of foreigners. Likewise, when there happens an extraordinary demand, or what is called a spurt, as does sometimes in one branch of business, sometimes in another, the masters may perhaps insist upon high profits, the workmen upon high wages; but this can never be of any long duration; so that in general we may conclude, that where proper laws are made, and executed, for preventing unlawful combinations, the labouring or working men will in a course of years underwork one another, till they reduce their wages to a bare scanty subsistence, and the masters will undersell one another, till they are reduced to a bare living profit; consequently, all people of business must necessarily, in a course of years, become as frugal and as industrious as it is possible for them to be in that country where they live.

I say, in that country where they live; for if in that country the necessaries and conveniences of life be dearer than the like necessaries and conveniences are in any other country, though they be equally frugal and parsimonious, yet the masters must have higher profits, and the workmen higher wages, than in any other country; and, consequently, their manufactures must be dearer than the like manufactures of any other country. This is the true cause of our distress, and of the success the French manufactures have lately met with. Our distress does not proceed from a want of people, or from the idleness or extravagance of our people, but from the multitude and weight of our taxes, or rather, from our injudicious method of taxation. By this, we have made it impossible for a poor man to support himself and family, for so little money, as one of his rank may do in our neighbouring countries. By this we have rendered the materials for all sorts of manufacture dearer than they are in other countries. A poor man cannot have a draught of small beer, salt to his meat, or a shoe to his foot, without paying a tax for it: he cannot have a clean shirt, without paying a tax for the soap made use of in washing it: he cannot have a candle to light him by night, nor a window to light him by day, without paying a tax for it: he cannot, in many parts, have a fire to dress his victuals, nor in any part, a draught of strong beer, or a dram, to help him to support hard labour, or to comfort him in cold, moist weather, without paying a most heavy tax for it. Nay, if we consider right, he cannot have a bit of bread to his meat, or a bit of meat to his bread, without paying a tax for it; because he must contribute towards those taxes that are paid by the farmer and grazier, as well as the baker and butcher; for the pernicious effect of our taxes goes in a circle, from the farmer or grazier, to the manufacturer or mechanic, and from the manufacturer or mechanic, back again to the farmer or grazier, enhancing, in its



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direful round, the price of every produce of the latter, and every production of the former.

Then again, with regard to our materials for manufacture; if they are of our own produce, the taxes I have mentioned affect them, and enhance their price, in every stage of their journey, from the farmer, grazier, or miner, that produces them, to the manufacturer; from him to the shop-keeper that retails, or the merchant that exports our manufactures; and from the merchant, through their whole voyage, to the foreign port where they are landed for sale, if they be exported in British shipping: and if the materials be of foreign produce, and imported in our own ships, these taxes affect them in their voyage to the port where they are landed, from thence through their whole journey, to the hands of the manufacturer that works them up, and from him to the shop-keeper or merchant that exposes them to sale.

But besides the taxes I have mentioned, we have many others that are directly laid upon materials for manufacture, such as iron, copper, leather, dyes, oils, and many other foreign productions, which are absolutely necessary for working up our home manufactures; and, consequently, such taxes must make a new addition to the price of our manufactures, both at home and abroad.

Thus the multitude and weight of our taxes must be a heavy clog upon our trade, and upon every sort of manufacture; but this is not the only error we have of late years fallen into: by mortgaging those taxes as soon as imposed, and thereby creating public funds, we have drawn the greatest part of our money out of trade, and entirely destroyed all private credit, so far as relates to the borrowing or lending of money. Before these public funds were created, the monied men amongst us were daily looking out for a merchant, manufacturer, or tradesman, that would take his money, upon personal security, and pay him the legal interest for the use of it. A merchant or dealer could in those days venture to launch out in trade much beyond his own stock, because he was sure of having what money he pleased upon his bond at legal interest, perhaps less, and for what time he pleased. But now there is no such thing to be expected: a merchant runs the risk of losing his credit, if he but asks to borrow money upon bond; therefore no man can venture to launch out in trade much beyond his own stock, and consequently every man must insist upon a higher profit, otherwise it would not be worth his while to carry on any trade. The conclusion to be drawn from hence is, that our merchants and dealers must have a greater profit than is required by the merchants and dealers of countries, where private credit abounds, and where a man may venture to launch out in trade much beyond his own stock; consequently, this, as well as our taxes, must contribute towards enabling foreigners to undersell us at all foreign markets.

When we consider these things, we may easily see the reason, why we are undersold at every foreign market by the French, and by every one of our neighbours upon the continent: we may see by what means the French, and some of our other neighbours, have been enabled to rival us in every branch of business, not excepting even our chief staple, the woollen manufacture. Taxes, I shall grant, are, and must be imposed in all countries; but there is no country in the world where there is such a multitude of taxes as in this; nor is there any country in the world where their taxes are imposed with so little regard to trade or the necessities of the poor. By this imprudent and uncharitable method of taxation, we have rendered all the necessaries, as well as conveniences, even of low life, so dear, that it is impossible for a labouring man, mechanic, or manufacturer, to work for as low wages as they may do in other countries; nor can our merchants, or master-tradesmen, support their families at so small a profit.

This is the true cause of our present distress; and it is so apparent, that one would wonder how it can be mistaken. Why should I say, mistaken? I am persuaded it is not mistaken. But as this misfortune has been brought upon us by the foolishness or wickedness of former ministers, our present ministers, and those who expect soon to be ministers, endeavour to cover the shame of their predecessors, by loading their countrymen in general with the infamy of being idle and extravagant. There may, perhaps, be a little extravagance among the people about London; and no man can wonder at it, who considers, that instead of taking any method for checking the luxury and extravagance of the people, we encourage every temptation that can be thought of

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for leading the people into idleness and expence. But this popular extravagance has not as yet reached the country: there is no place in the world where labouring men work harder, or live more penuriously, than they do in most of the country places throughout Great Britain. I shall grant, they do and must spend more money than those of their rank do in other countries; but this is occasioned by the excessive dearness of provisions in this country, above what the same sort of provisions may be bought for in other countries.

After having thus, Sir, pointed out the nature and true cause of our distemper, gentlemen cannot miss foreseeing, that what is now proposed will be no effectual remedy. Some inconsiderate foreigners, especially Germans, may, by this general indulgence, be tempted to come over, when they hear of the high wages given in this country, and do not consider the dearness of living. But those people, who are not celebrated either for their sobriety or abstemiousness, when they find they cannot live so well here for a shilling, as they may do in their own country for sixpence, will either return from whence they came, or they will list themselves in our regular army; and this is, perhaps, the true, though secret design of the Bill now before us. Should this Bill pass, how can we prevent our officers accepting them as recruits? They will accept of less listing-money than our own people; and most officers are willing to recruit at as small an expence as possible.

Some gentlemen may, perhaps, Sir, imagine, that this would be a good method for saving our own people, and leaving them to be employed in trade, manufactures, and the culture of our lands; but I must beg such gentlemen's pardon. If we must have an army, I am for having an army of native British. With an army of natives, it is extremely dangerous, if not impossible, to overturn the liberties of a free people; but if a minister can, under any pretence whatsoever, bring a great number of foreign mercenaries into our army, these foreign mercenaries will secure the obedience of our native troops, and intice or compel them to co-operate in overthrowing the liberties of their country. By this method it was, among others, that Julius Cæsar trampled upon the liberties of the Romans. During his war in Gaul, he had taken care to incorporate in his army great numbers of Gauls, Batavians, Germans, and other foreigners, as may be gathered from several passages in his history, though he was cunning enough not to tell us so in express terms. By means of these foreigners, he made it dangerous for any native Roman in his army, to testify a regard to his country preferable to the commands of his general.

This dangerous consequence, of having our regular army filled up with foreigners, is the more to be dreaded, Sir, because it would be necessary for the safety of those that had patronized or consented to the passing of such a law; for nothing can be more unpopular. We know how jealous the people are of having foreigners come to take the bread out of their mouths. Even in the same country, the people of one province are jealous of those of another, as we have often been made sensible of, by the mobs that have been raised against the Irish and Welsh that come to work here about London in hay and harvest time. If this Bill should have any effect: if it should bring over a number of foreign labouring men, to take the bread out of the mouths of our own poor, it would probably raise such mobs and insurrections, as would make it necessary for the friends of this Bill, to have an army of foreigners to protect them against the resentment of the people; for they could not trust to an army of natives, most part of whom might perhaps join with their countrymen in driving foreigners out of the kingdom, and *Dewitting* some of those that brought them here; therefore if this Bill should have any effect, it would have a very bad effect; and I have already shewn, that it could not have a good one; for as long as our taxes continue, no foreigner could live here, and work for less wages than our own people do at present.

I could mention many other dangers and inconveniences that would be the certain consequence of our passing such a Bill: and I cannot suggest to myself any one benefit that can be reasonably expected from it, nor any one good motive we can have for it now. Our trade is not now in its infancy: I wish it may not be in its dotage. Is there any one business, any one art or manufacture, in which we have not as ingenious and experienced masters as are to be met with in any other country? Is there any one sort of business, in which we have not as many workmen as can find employment?

I have now, I hope, fully discussed that part of the argument, which relates to the



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bringing over foreign workmen, and shall next touch upon that part which relates to the bringing over, to settle amongst us, those rich foreigners who have a property in our public funds. I shall readily grant, that if it were possible, it would be a great advantage to us, to have all such foreigners come to settle and spend the income of their property amongst us; but the ready passage which all Naturalization Bills have of late years, met with, and the small expence attending it, may convince us, that the thing is impossible. Can we think, that a rich foreigner, who is inclined to come and settle here, would debar himself that pleasure, on account of the small expence of getting a Naturalization Bill passed, which is not above 20 or 30*l.* when three or more of them are included, as they may be, in one and the same Bill? No, it is the *natale solum*, the love that every man has for his native soil, and the connections a man has with the people of his native country, that prevents his following his property into this kingdom. No man ever willingly leaves his native country, but for the sake of some superior advantage he expects in another: therefore, we cannot expect, that any rich foreigner would take the advantage of this Bill, should it be passed into a law, merely for the sake of spending his money here: and if he expects any advantage by coming to settle here, and being made free of this country, he will never scruple the trifling expence of a particular Bill for that purpose.

Besides, we know that all men, as soon as they begin to be above want, begin to grow ambitious. They begin to covet power and magistracy, which no foreigner, even though naturalized, can arrive at in this country, unless you repeal that clause in the Act of Settlement, which enacts, that no person born out of the British dominions, though naturalized, shall be of the privy council, or member of either House, or enjoy any office or place of trust, or have a grant of lands or hereditaments. Whether the intention of this Bill be, by some general words, to repeal that clause, I do not know; but I must think it is not yet a proper time to have it repealed: and till it is repealed, I am persuaded, you never can prevail with any rich foreigner to leave his own country, where he may perhaps, arrive at the chief magistracy, and come to settle here, where he can never expect the least share in our government, unless it be that of giving his vote, with other citizens or freeholders, for a member of this House; which vote, we may expect, will always be given for the court candidate; for as he cannot be a member himself, he will of course have very little regard for the honour or dignity of this assembly.

In short, let me turn my thoughts which way I will, I can see nothing but dismal effects to be apprehended from the Bill. I have shewn it can be of no service with regard to the industry or frugality of our people; consequently it can no way contribute towards recovering or preserving our trade or manufactures. It can have no effect, but that of overturning our liberties, and I am sure, the establishment of slavery never rendered a country more populous, than it was in the days of liberty. As our trade is in the utmost danger; as it must be undone, unless speedily relieved from the pressures it now groans under; the recovery or preservation of our trade is, I know, a most plausible pretence: but, I hope, gentlemen will not thereby be tempted to try an experiment, which must be attended with great danger, and from which we can expect no relief. We can expect relief from nothing, but from the abolishing of all those taxes which lie heavy upon our trade and our poor. For this purpose, let us avoid engaging in foreign broils: let us restore economy and frugality in every article of public expence; let us give over keeping up unnecessary armies in time of peace: let us contrive other means of raising money for the public service, than that of taxing our trade and our poor: let us pay off our public debts and abolish our public funds, that our moneyed men may have no way of getting an interest for their money, but by lending it to honest merchants and tradesmen; and if we do this, I will venture to prophesy, that, by the natural increase of our own people, this will soon become the most populous kingdom upon earth.

The question was then put, whether the Bill should be committed; and it was carried in the negative, by 187 against 103, Thus the Bill dropped.

*Debate in the Commons on the Bill of Poundage on all Goods and Merchandizes imported.**] February 8. The Bill "granting to his majesty a Subsidy of Poundage upon all Goods and Merchandizes to be imported into this kingdom; and for rais-

* From the London Magazine.

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ing a certain sum of money by annuities and a lottery, to be charged on the said Subsidy; and for other purposes in the Bill mentioned," was committed. This important Bill was afterwards passed without a division: but in its progress through the Commons, the following debate took place:*

Mr. *Pelham* rose and said:

Sir; to this country it is at all times a misfortune to be engaged in war, especially a war upon the continent of Europe, but at this time, and in our present unhappy circumstances, it is a greater misfortune than ever it was heretofore; be-

* "No parliament ever seconded their professions better than this did. Though it is more than probable, that the scheme of a general pacification had been, before the meeting of the parliament, settled in the cabinet, yet the preparations for war continued greater than ever. Though the national debt, at this time, amounted to no less than 64,593,797*l.* 16*s.* yet the new House of Commons readily granted 8,507,930*l.* for the services of the year 1748. Out of this money, 400,000*l.* was allotted to the queen of Hungary, to enable her to send her troops early into the field, and effectually to carry on the campaign, and 300,000*l.* to the king of Sardinia, who was at this time a great favourite with the court and people of England: 40,000 seamen were voted, 49,000 land forces, and 11,500 marines: 22,000 Hanoverians were taken into pay, and the sum of 167,881*l.* was voted for the proportion of the subsidy for 30,000 Russians, and 150,000*l.* for their forage and provisions: 8,620*l.* was granted by way of subsidy to the elector of Mentz; 26,846*l.* to the elector of Bavaria: 161,607*l.* was voted for the pay of 6,000 Hessians, and 57,792*l.* for 4,000 of the troops of Wolfenbuttel that were to be taken into pay the 25th of March, and to continue till the 25th of December, 1748. Thus Great Britain, besides the vast subsidies she gave to foreign powers this year, paid 122,500 land forces and marines. A sum of 235,749*l.* 2*s.* 10*d.* was voted for reimbursing the provinces of New England their expences in reducing Cape Breton. By this last vote, the property of Louisburgh became vested in the crown, which was looked upon to be a necessary measure; it being easily foreseen, that the delivering it back to France, would be insisted upon at the ensuing congress. The claims of the Scots for their Heretable Jurisdictions, had been referred to the judges there, who had reduced their demand to 152,237*l.* 15*s.* 4*d.* The rest of the immense sum granted, was appropriated to the payment of the English fleet and army, and to other services ordinary and extraordinary.

"Upon this occasion, the liberality of the parliament fell short of the spirit of the people. 4,300,000*l.* was proposed to be raised on a loan by subscription, to be charged on a new subsidy of poundage upon all goods and merchandizes to be imported into Great Britain. Books were accordingly opened for the subscription, and in a few hours the whole sum was not only subscribed, but 2,000,000*l.* more than had been required. This raised the credit of Mr. Pelham and the ministry greatly in the eyes of foreigners, who saw with amazement such large sums easily raised, after such immense ones had been expended for the purposes of the war. Some attempts, indeed, were made towards raising an opposition, and several pens employed for that purpose, but without effect; and the business of the parliament went on without division, or almost debate. The earl of Chesterfield, however, resigned the seals as secretary of state, and his majesty gave them to the duke of Bedford, who was succeeded by the earl of Sandwich as first lord of the admiralty." Tindal.

"In February 1748, lord Chesterfield resigned the seals. The king received his resignation with outward marks of regret, but with inward satisfaction. Lord Chesterfield took his leave of public life with dignity and complacency, and, to prove that he did not retire in ill humour, solicited and obtained a seat at the Admiralty Board for his brother. In public, he attributed his resignation to his declining health; but, in private, did not scruple to say, that as he could neither serve the public, nor his particular friends, he deemed it unnecessary to retain his employment; he declared, however, that he would never more submit to the slavery of opposition, and never swerved from his resolution.

"The expected vacancy of the seals occasioned great cabals. Lord Sandwich was intended for the post by the duke of Cumberland and the duke of Newcastle, who were at that time closely united; but they could not venture openly to declare their intentions, because he was no favourite with the king, and was disliked by the pacific members of the cabinet. Both the duke of Newcastle and Mr. Pelham affected to recommend no one; the former, however, hinted that the seals ought to be offered to the duke of Bedford, who, it was thought, would decline the offer in favour of his friend lord Sandwich; but he disappointed this scheme, by accepting the seals himself, and lord Sandwich succeeded him as first lord of the admiralty.

"Mr. Fox, who had highly distinguished himself for his skill and assiduity in business, and for his parliamentary abilities, was designated by the public voice as the most likely person to succeed lord Chesterfield; but he neither solicited nor expected the office himself, though his numerous friends were active in their exertions, and he was even warmly countenanced by Mr. Pitt, afterwards his great rival.

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cause we cannot carry on such a war with vigour, or with any hopes of success, without running ourselves yearly in debt; and our people are already loaded with so many taxes, and all these taxes mortgaged for the payment of former debts, that it is very difficult to find out a fund for any new debt we are obliged to contract. I do not say this, Sir, with a design to reflect upon any war we have formerly been engaged in, or upon the expence we were at for the support of those wars. I know, we were forced into those wars for the sake of preserving the liberties of Europe as well as our own; and we could not propose to compass that glorious end at any less expence. But, I wish we had not been so parsimonious during the long interval of peace: I wish we had then considered, that we might again be engaged in a heavy war for the support of the same glorious cause; for if we had, we should not certainly have disminished or abolished any one of our taxes, till we had freed our public revenue from all incumbrances, and thereby put ourselves in a condition to become again the bulwark of the liberties of Europe, without involving ourselves in difficulties, or loading the people with any new taxes.

At present, Sir, we may properly enough be said to be engaged in two different wars: one against Spain for preserving the freedom of our trade and navigation, and another against France and Spain for preserving the liberties of Europe; and our success in the former must be allowed to depend absolutely upon our success in the latter. Both these wars are therefore just and necessary, and both his majesty entered into by the advice of parliament and in pursuance of the general voice of his people. We may remember, how generally and how loudly the people called for the war against Spain in 1739, and how zealous they were in 1741 for supporting the queen of Hungary. I therefore think I need not say any thing in justification of the war we are now engaged in, nor do I believe there is a man in the kingdom, who wishes the continuance of our present happy establishment, that will grudge the expence. And I have the more reason to be of this opinion, because we so unanimously agreed to the Resolution of the Committee of Supply, for granting to his majesty the sum of 6,300,000*l.* to be raised by transferable annuities, after the rate of 4 per cent. per ann. together with a premium of 10*l.* per cent. to the subscribers who should engage to advance the money.

This, I say, Sir, was a proof of the zeal of parliament for supporting the present war, and the people shewed so much zeal for the same cause, and so much confidence in the wisdom and justice of parliament, that the whole, indeed a great deal more than the whole money was subscribed in a few hours, though they knew nothing of the fund that was to be provided for their payment, which shews, that we are not as yet under any difficulty as to the borrow-

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"At this period the duke of Newcastle predominated in the cabinet; he had conciliated the good-will of the king, and was foremost in promoting his continental politics. He strongly enforced the great measure which now occupied the cabinet, the election of the archduke Joseph as king of the Romans; a measure which, at this moment, unnecessarily involved England in the chaos of German politics; and, as it was opposed by the courts of Versailles and Berlin, required enormous subsidies to purchase the votes of the electoral princes." Coxe's Memoirs of Horatio lord Walpole.

HANBURY PAPERS. Mr. Henry Fox to Sir Charles Hanbury Williams. War Office, Feb. 17, O. S. 1747-8.

"You will expect I should say something of myself, as having been so much named on this occasion. You will believe, that when lord C. resigned, I felt with regard to the seals, as I shall with respect to the see of Winchester, when that prelate dies. Indeed I no more thought of the one than I did of the other. The duke of Newcastle declared early he would name nobody; Mr. Pelham said the same. Hence standers-by named every body; and, among the rest, me. All Sandwich's enemies were my friends; or, to express it better than by the word enemies, those who wished him not to succeed, as it would be too strong a declaration in favour of the warlike system. Joined to these, who were numerous and of rank at court, the voice of the House of Commons was much in my favour, and of none more loudly than Lyttleton, Pitt, &c. I flatter myself that from personal affection, too, I had more active friends than I could have imagined, or is usual; and this has been a pleasure to me. On the other side, as I had no thoughts of it, or pretensions to it, (though spirit enough to undertake it if it came strangely in my way,) as the execution of it might have been attended with great discredit to myself, and certainly with much uneasiness; and as the whole of the transaction has been such as leaves me the honour of being talked of for it, without the reproach of having pretended to what I could not attain, I am in my own mind as easy as ever I was, and shall go on in my old track as cheerfully as ever, with as little thought as ever I had of being secretary of state."

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ing of money for the support of the war; but I must confess, it is not so easy to find a sufficient fund for securing the repayment. To establish a fund for this purpose without laying some new tax upon the people, is impossible, and there is nothing I have so great an aversion to as that of proposing any new imposition; but something of this sort must be done, and therefore all we can do is, to fix upon that tax which will be most easily raised by those that are subjected to the payment of it, and which will be least burthensome to the people in general, especially those of the poorer sort. This has employed my thoughts for some months, and many schemes have been offered to me, but of all I have thought or heard of, that of a new impost of Poundage upon all goods imported, with a drawback in case of exportation, is, in my opinion, the best, because it may be easily paid by those that are to be subjected to the payment of it; because it will not be burthensome to any, and indeed will no way affect the poorer sort of our people; because we may be sure that it will produce a sum sufficient for paying the interest annually, with a surplus for paying off part of the principal; and because it can be attended with no bad consequences to our trade, as it is to be wholly drawn back, in case the goods be afterwards exported.

With regard to those who are to be subjected to the payment of this tax, it will be the merchants importers only; and as they are all men of considerable fortunes and extensive credit, they can be under no difficulty in advancing 5 per cent. or a shilling in the pound, upon the importation of their goods; and with regard to the rest of the people, as in this nation we have the good fortune to want nothing from abroad that is absolutely necessary for the subsistence of the poor, they cannot be in the least affected by this tax, because they consume none of these goods that are to be made subject to it, the price of which will, I shall grant, be a little enhanced by it, but it will be a mere trifle, which will hardly be felt by the better sort of people.

A third advantage is, Sir, because we may before-hand with some certainty judge of the amount of the produce, by considering the produce of taxes of the same kind long since imposed and still subsisting; and from these we may almost certainly conclude, that it will produce annually a sum sufficient for paying the annuities to be now established, with a surplus for paying off part of the principal yearly, in case the parliament should think fit to apply it that way; for this, I think, we ought not at present to determine, but leave it to the discretion of future parliaments, because we cannot foresee what future exigencies may require.

And a fourth advantage attending this tax is, because it cannot, I think, Sir, any way injure or obstruct our foreign commerce, as it is proposed to be wholly drawn back upon exportation; to which I may add, that it will be levied without any new expence, and without increasing the number of officers now employed in collecting the customs: at least I may venture to say, that no new tax can be thought of, which will occasion less expence to the public, or less trouble to those made liable to it, or a less increase of officers.

This tax, Sir, as I have already hinted, is proposed to be 5 per cent. or 1*s.* in the pound, upon all goods and merchandizes, now liable to any subsidy on importation, that shall be imported into this kingdom, or any of his majesty's dominions to the same belonging, at any time after the 1st day of March, to be paid before the landing thereof, according to the rates or values as they are now rated in the two books of rates referred to by the acts of the 12th of Charles 2, and 11th of George 1, or in case of their not being rated in either of these books, according to the value they shall be rated at by the importer upon oath; and as we have already several subsidies now payable in the same way, this new subsidy can create no new trouble to the merchant or the collector, except that of adding a new article to the account of the duties payable upon exportation.

As to such goods and merchandizes coming from China or the East Indies, as are not rated in either of the books of rates, I know, Sir, they must be provided for by a particular clause, and with respect to them, it is proposed, that they shall pay this new subsidy according to the gross price for which they shall be sold at the candle, without any allowance or deduction whatever; because, as this whole subsidy is to be drawn back, if any such goods be afterwards exported, there is no occasion for making the usual allowances or deductions, and if they are consumed at home, as they can be consumed by none but the richer sort of people, they are able enough to pay this subsidy upon the gross price without any deduction.



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But, Sir, though it be proposed that this duty shall be paid, without any allowance, before the landing thereof, yet as tobacco is a favourite article in our commerce, therefore it is proposed, that the importers of tobacco shall, upon paying down this subsidy, have the same allowance with respect thereto, as they are intitled to by any law now in force upon tobacco imported; and further, that the importers shall have, if they chuse, 18 months for paying this subsidy, upon becoming bound, with one or more sufficient sureties, in a bond or bonds, to pay it within that time; and that if re-exported within that time, the securities so given shall be vacated.

Then, with respect to sugar, Sir, as we ought to encourage, as much as possible, the refining of our sugars here at home before exportation, and as it ought not to be left to the commissioners or officers of the customs to settle the proportion between refined sugars and the brown or muscovado sugars, from which the refined sugars are made, in order to determine what shall be the drawback to be allowed upon their exportation, therefore it is proposed, that this point shall be settled and determined by parliament, and that a farther drawback of 3*s.* per cwt. upon all such refined sugars, shall be paid to the exporter, upon the refiner's making oath, that the refined sugar so to be exported, was produced from brown or muscovado sugar, charged with this subsidy, and that, as he believes, the same was imported from his majesty's plantations in America, and this duty duly paid at the time of its importation.

Now, Sir, the only part of the scheme remaining to be explained, is that which relates to prize goods, as to which I must observe, that by an act passed last session it was enacted, that all goods and merchandizes taken from his majesty's enemies, and landed in any port of this kingdom, might be exported again to foreign parts, by the captors or other owners thereof, without being liable to any duty of custom or excise for the same. This, Sir, is really putting the produce and manufactures of his majesty's enemies, when taken by his majesty's subjects, upon a better footing than the produce and manufactures of our own plantations, most of which pay duties upon importation, and are not entitled to draw the whole back upon exportation. For example, brown and muscovado sugars of the British plantations now pay near 3*s.* 4*d.* per cwt. upon importation, and draw back but 2*s.* 7*d.*½ upon exportation, so that they must now go to a foreign market, loaded with near 9*d.* per cwt. more than prize sugars produced by our enemies are loaded with; which is thought highly unreasonable: and it is further thought, that the captors who command or belong to his majesty's ships of war, and who must be supposed to be gainers by the war, ought to contribute something towards the support of that war by which they are gainers; therefore it is proposed to repeal that law, by which means all prize goods will become liable to the same duties, and entitled to the same drawbacks, with other goods of the same kind, and among others will become liable to this new subsidy in case it takes place, which, for the reason I have mentioned, it is proposed, shall not be drawn back upon the exportation of such goods or merchandizes, if taken by any of his majesty's ships of war.

Thus, Sir, I have explained to you what I think the best scheme for providing a fund for the payment of the annuities at 4 per cent. per annum, upon the capital of 6,930,000*l.*; which is the capital voted by the committee of supply, that is to say, 6,300,000*l.* granted to his majesty, and 630,000*l.* granted by way of premium to those that shall advance the money, upon this loan. This scheme, I know, Sir, may be liable to many objections, as schemes of this nature must always be. It is impossible to contrive a tax but what must be productive of some inconveniencies, and suggestions of this kind are but too much attended to, the imagination of mankind being a sort of microscope, that magnifies every danger dreaded as well as every pleasure expected. I shall not therefore pretend to answer every objection that may be made to this scheme: all I can say is, it is the best I could think of; and if any gentleman can suggest a better, I shall be most ready and willing to give up my scheme.

But after having made this declaration, Sir, I must observe, that, in our present circumstances, no gentleman ought, I think, to start objections against what I have proposed without proposing or suggesting something he thinks better. Neither of the wars we are now engaged in, can with any justice or reason be objected to; but if it were otherwise, now we are in, we must get out: we must get out with our arms in our hand; for I trust in God! this nation will never be forced to fall upon

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its knees, and cry for mercy to any earthly power. To get out with our arms in our hand, we must have money: we must have money sufficient for the purpose; and money cannot be had without a sufficient security. Therefore, to start objections and suggest inconveniences against the security now proposed, without offering any other, can answer no end but that of alarming the people, which must give a great advantage to our enemies, and may be of the most fatal consequence in this dangerous conjuncture. For this reason I expect to see the proposition I have made unanimously agreed to, or a much better offered in its stead, the last of which would to me be the most agreeable, because I should always chuse to be an approver, rather than the author of any scheme for taxing the people.

Mr. *Velters Cornwall:*

Sir; though I am no projector, nor think myself any way bound to contrive schemes for supplying our ministers with such sums, as they may think necessary for the support of their extravagant measures, yet I cannot sit silent, when I hear the distresses of my country laid open by those who have invariably joined in, or approved of those very measures by which we have been brought into such distress. I shall readily join with them in allowing, that it is now a greater misfortune for us to be engaged in war than it ever was, and I will add, that if we go on in the tract which they and their friends first led us into, and have always advised, this misfortune will increase every year, till at last we shall be rendered unable to carry on any war, not even a war *pro aris et focis.* But, Sir, our distress is now become so apparent, that I hope it will make us perceive, that we have been for many years in a wrong course. The right course, and the course we ought naturally to have steered, was a plain and safe one; but by departing from that course and following one chalked out to us by foreign pilots, or by self-interested pilots of our own, we now find ourselves environed with rocks, whirlpools, and quicksands, from whence it will be a miracle if we escape without shipwreck.

These rocks, whirlpools, and quicksands, and the methods by which we have been drawn in among them, I shall endeavour to point out; and I take this opportunity, because, I hope the distress we are in, will procure me a patient hearing and some attention. As we are by nature disjoined from the continent, and surrounded with the sea, it ought always to be a maxim with us, to have as little to do as possible with the disputes among the princes of Europe, and never to engage as principals in a land war: as we are a trading nation, we ought to keep our trade as free as possible, and consequently we ought never, for any consideration, to think of supplying the public expence by taxes which disturb or lie heavy upon our commerce or manufactures; and as it is impossible to foresee what future wars we may be engaged in, we ought annually, even in time of war, to raise within the year as much as shall be thought necessary for our annual public expence. If these three maxims had been religiously observed, they would have kept us in our right course; but we have ever since the Revolution acted diametrically opposite to every one of them, and by so doing we are become involved in every dispute that can happen among any of the princes or states of Europe, and we are by treaty obliged to join as principals in every land war that can happen upon the continent: our commerce and manufactures are by taxes so disturbed and loaded, that should the tranquillity of Europe be restored and last for any time, our foreign trade will be entirely ruined; and our public revenues are now so incumbered, that it will scarcely be possible for us, even when peace is restored, to provide for the current service of the year, without running still farther in debt, or encroaching upon that sacred fund, which was long since set apart for paying off our public debts.

These, Sir, are the distresses we are now involved in, and it must be confessed, that we began to be led into them soon after the Revolution. We then began to interfere in disputes upon the continent, more than we ought to have done: we then began to load our commerce and manufactures with taxes of various kinds; and we then began to supply the public expence by running in debt yearly, instead of raising the necessary sums within the year. The same measures were continued and improved during the greatest part of the following reign; and they have since been still farther improved, especially with respect to the present war upon the continent. Gentlemen will perhaps say, that our engaging in a war against France could not at any of those periods have been avoided, and with respect to the

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first two I shall readily agree with them; but I will say with respect to both, that we had no occasion to engage so far as we did, or in the way we did; for when we take upon us the defence of Europe by land against the power of France, the princes upon the continent will readily leave it to us, in order to be at leisure to pursue their own particular views: whereas should we refuse to undertake their defence, they would all unite among themselves, and every one would suspend or give up his particular views, for the sake of guarding against the common danger. During the whole time of the war in king William's time, we know, that the emperor carried on a war against the Turks, though at the very beginning of it he might have concluded a peace with them upon very honourable terms; but this he refused, because he saw that the Dutch and we were willing to undertake the war against the French in Flanders. Again, in queen Anne's time, the emperor employed a great part of his troops, in oppressing the Protestants of Hungary, which he neither would nor could have done, if we had not taken upon us so very great a share of that war; and what was still worse, in order to carry on the war by land, we entirely neglected it by sea, and in America, where alone we could carry it on with any advantage to ourselves; and it is well known, that in proportion as we increased our efforts for pushing the war successfully by land, even our allies slackened in theirs, and the other princes of Europe looked on with unconcern, perhaps sneering at us for being at the expence of securing their independency.

Thus it was, Sir, thus it will always be, as long as we make ourselves the Don Quixotes of Europe, which we plainly did in both these wars, and the last of the two we continued for several years, after we might have put an end to it upon as honourable terms as we could reasonably desire; for after the battle of Hochstett in 1704, or at least soon after the battle of Ramillies in 1706, I am persuaded we might have obtained all, or the greatest part of what was wanted or stipulated by the Grand Alliance, which was only the Spanish Low Countries, as a barrier for the United Provinces, and the Spanish dominions in Italy, as an equitable and reasonable satisfaction to the emperor, for his pretension to the Spanish succession. But suppose we did not engage farther, or continue longer in either of those wars, than was reasonable for us to do, surely we might yearly have raised even the extraordinary expence we were at, within the year, and we might have raised it without loading our commerce and manufactures with any impositions; at least as soon as the war was over, and we had got all that was thought necessary, at the time of the Grand Alliance, for securing the liberties of Europe, we should then have begun to cultivate an universal harmony amongst ourselves, to avoid engaging any more in foreign broils, and to reduce the public expence as low as possible: if we had done this, our debts might all have been paid off, and all those taxes abolished which are pernicious to our commerce and manufactures, before the year 1739, when our former pusillanimous measures obliged us to declare war against Spain.

But instead of doing this, Sir, we in every respect acted the direct contrary. By persecuting those whose chief crime had been, their supplanting others in the lucrative places they enjoyed, we raised the party animosities amongst us to such a height, that it produced a rebellion which might have proved fatal both to our religion and liberties: instead of avoiding foreign broils, we not only fomented them, but engaged ourselves as principals in every one; and instead of reducing the public expence, we have multiplied posts and pensions, and have ever since kept up a more numerous standing army than was ever before kept up in time of peace. The hon. gentleman talked of our having been too parsimonious, during the long interval of peace we lately enjoyed: I should be glad to know, Sir, in what we were parsimonious; for I know of no tax that has been either abolished or diminished, since the end of queen Anne's war, except now and then a little in the land-tax, and in lieu of that, the sinking fund, or some part of it, has often been applied to the current service. The continuance of our incumbrances is not therefore owing to our parsimony, but to our extravagance, and the many foreign broils we have idly engaged in.

I shall not take up your time, Sir, with entering particularly into the several parts of our misconduct from the death of queen Anne to the year 1739, because they have been so often set in a true and clear light; and as to our war with Spain, all I shall say is, that it was indeed then become necessary, but that necessity we had brought upon ourselves, by permitting them for so

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long a time to search and seize our ships in the American seas, on pretence of contraband goods, and concluding so many treaties with them, without obliging them to give up this pretence; whereas, if we had at the beginning opposed it with vigour, and demanded satisfaction for the first use they made of it, which we were entitled to do by the law of nations as well as by particular treaties, they would then have given up this unjust and insufferable pretence, rather than enter into a war with us; so that our war with Spain, though become necessary, was really brought upon us by our own pusillanimity; but the war we are now engaged in upon the continent, proceeded from a very different cause, which I shall now beg leave to explain.

Whilst the whim prevailed, Sir, of preserving, or rather setting up a balance of power in Europe, by raising the power of the House of Austria to be equal to that of Bourbon, which could never be done, without making the former as absolute in Germany as the latter was in France: I say, whilst this whim prevailed, and the House of Austria continued in the quiet possession of the imperial throne, the power of that House was so great in Germany, that several of the princes thereof were obliged to submit, or at least not to resent what they thought acts of very great injustice towards them. In 1721 we began to break through this whim by our separate treaty with Spain, and in 1725 we completed the breach by our alliance with France against the emperor. The reason of both these breaches we know, and we know it was not a British reason; for we were thereby likely to be involved in a war in conjunction with the House of Bourbon against the House of Austria, which our then minister at last began to see the nation would not bear; and to avoid this rock, which he had suffered himself to be led upon by this no British reason, he led us into an absolute guarantee of the Pragmatic Sanction in 1731; but by our conduct in 1734, the princes of Germany saw, that we did not much regard the guarantee we had so solemnly and so lately agreed to. The injury supposed to be done by the imperial court to a certain House in Germany, which had perhaps too great an influence here, was as yet "in alta mente repostum," and prevented our performing our engagement, though the interest of Britain at that time required, and the then circumstances of Europe invited us to have performed it, in the most faithful and vigorous manner.

From our unconcern at that conjuncture, Sir, such of the princes of Germany as had any latent claims upon the House of Austria, began to conceive hopes, that upon the death of the then emperor, they might have an opportunity to revive their claims with effect; and among these the two chief were the Houses of Brandenburgh and Bavaria. If we had never interfered in those disputes: if we had never entered into any guarantee of the Pragmatic Sanction; or if upon the emperor's death we had signified, that it would be impossible for us by ourselves alone to perform our guarantee, the imperial court, before the emperor's death, or the queen of Hungary after his death, would have taken care, by some cessions, to have gained one or both these princes, in order to guard against the Spaniards in Italy and the French in Flanders; and if the Germanic body had been thus united, I am convinced, we should have had no war upon the continent; because neither the French nor Spaniards would have ventured to have attacked the queen of Hungary, if they had seen that she would be supported by the whole Germanic body as well as by the maritime powers. But instead of this, we continued, even after the emperor's death, and after the king of Prussia had entered Silesia, to assure the court of Vienna, that in case the king of Prussia could not be persuaded to desist from his hostile enterprize, we would faithfully and religiously perform the treaties that obliged us to assist her Hungarian majesty; by which that court was induced to reject the moderate terms of an accommodation offered by the king of Prussia; and this was the true cause of the present war in Europe.

Though it was certainly inconsistent with the true interest of Great Britain to encourage the queen of Hungary to reject the terms at first offered by Prussia, yet I believe, Sir, our ministers, from other motives, were at first sincere in their promises of assistance; and this gave rise to the popular clamour here for supporting the queen of Hungary; for that clamour was first begun at court, and propagated by that influence in this House. But when the French armies began to move into Germany, and a certain dominion there came to be in danger, these promises were all forgot, the Spaniards were permitted to sail quietly to Italy, and all



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thoughts of giving any effectual assistance to the queen of Hungary laid aside, till the good conduct of that princess's armies, the bad conduct of the French, and an accommodation between her and Prussia, put that German dominion out of danger. Then again we resumed a most extravagant zeal for supporting, and even enlarging the power of the House of Austria; and by this zeal we shall probably be governed, till that German dominion be again brought into danger, which it may be, should the Dutch be forced into a separate peace or a neutrality with France; and if this should happen, I may venture to prophecy, that Great Britain must not only put a stop to, but give up all her naval conquests, and submit to a disadvantageous, if not dishonourable and unnecessary peace, both with France and Spain.

I say, unnecessary, Sir, because no success of the French upon the continent can force Great Britain, if directed by British counsels only, into an ignominious peace; for experience has shewn, that we can support a naval war with success both against France and Spain; and if France should aim at extending her dominions upon the continent, it would make the other states and princes of Europe forget their mutual animosities, and unite in repelling the common danger, which they might easily do, if we should put a stop to all the French and Spanish resources by sea, and keep their coasts in a continual alarm, by a fleet with an army on board hovering round them.

I hope I have shewn, Sir, that we have been brought into our present distress, by pursuing a long course of wrong measures: I have done this, on purpose that gentlemen may consider, whether we ought not now to alter our course, rather than to bring ourselves into greater distress, by going on in the same course and agreeing to the present proposition; for I am well convinced, that if we agree to this tax, and establish it as a perpetual fund, it will be such a load upon our commerce and manufactures, as will entirely ruin both in a few years, after the French are enabled, by an advantageous peace, to rival us in both; and in the present circumstances of Europe, we cannot propose to force them to agree to any other, by prosecuting the war upon the continent; for we cannot propose to do this in less than a seven years successful war, during all which time we must be at as great an expence at least as we are at present, and consequently must contract six or seven millions of debt yearly, which it would be impossible for us to find funds for, should the present humour of lending upon public securities continue, which we are far from being well assured of: and if that humour should take a turn, it would be more difficult for us, if possible, to find subscribers, than to find funds for subscriptions.

But, I hope, Sir, nothing I have said upon this head, will be made use of as an argument for our submitting to a peace disadvantageous or ignominious for Great Britain. If we leave the continent to take care of itself, and confine ourselves to a naval war, we may carry it on with little expence and great success both against France and Spain, till they shall be glad to give up all the conquests we have made in America, for the sake of preserving what they may then have remaining; so that our disagreeing to this proposition can have no effect, but that of forcing our ministers into that course, which alone is natural, easy, safe, and advantageous for Great Britain to steer.

Mr. *Henry Fox:*

Sir; I little expected to have had any occasion to give you the trouble of hearing what I could say, in support of the proposition offered by my hon. friend; but the arguments made use of by the hon. gentleman who spoke last, and his aim in making use of those arguments, are so extraordinary, that I think I cannot, in duty to my country, sit silent, and therefore, I hope, you will pardon my endeavouring to shew the weakness of his arguments, and the fatal consequences of what he aims at. By his conclusion every gentleman may see what he aims at, which is, our leaving the continent to take care of itself, and confining ourselves to a naval war against France and Spain, which, he says, we might be able to carry on with little expence and great success, till they submit to such terms of peace as we may think reasonable.

This, Sir, is evidently his conclusion, and the premises he makes use of are, to shew, that we took upon ourselves a greater share of the war, both in king William's and queen Anne's time, than we ought to have done, and that we have by our treaties since the Revolution engaged ourselves in the affairs of the continent, much further than is consistent with the true interest of this island. For this purpose he

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set out with a maxim, that as we are by nature disjointed from the continent, and surrounded with the sea, we ought to have as little to do as possible with the disputes among the princes of Europe, and never to engage as principals in a land war. The first part of this maxim I shall readily agree to: I shall admit, that we ought to have as little to do as possible with the disputes among the princes of Europe, but the last part I do not well understand; for whether the war be by land or by sea, we may at first engage as auxiliaries only, as we did in the present war upon the continent, but it is not in our power to chuse whether we shall always continue so, because those against whom we engage may, when they please, make us principals, by declaring war against us, as France did in the war we are now engaged in, which they have, I believe, since heartily repented; and consequently from experience we ought to conclude, that if we ever do engage in a war against France, or indeed against any nation that has any commerce or naval power, we ought to engage as principals, because it gives us an opportunity to destroy both their commerce and naval power, which will always increase our own, besides depriving them of the means for supporting the war at land.

Now, Sir, to return to the first part of the hon. gentleman's maxim, which, I have said, I shall readily agree to, and, I believe, every gentleman will agree, that we ought to have as little to do as possible with the disputes among the princes of Europe; but is it possible for us to be unconcerned, when the dispute happens to be, whether the French, or any other nation upon the continent of Europe, shall bring all the rest under subjection? Whenever this happens to be the case, Sir, we must join the confederacy formed against any such ambitious design, and if it be necessary, we must join with our whole force both by land and sea. This was the case both in the reign of king William and queen Anne. The French had evidently formed a design to bring all the princes and states upon the continent of Europe under subjection, or at least under such a dependance as not to be in a condition to refuse any thing they demanded; and unless we had joined with our whole force both by land and sea, it would have been impossible to have formed a confederacy sufficient for defeating their design. For our own safety therefore, we should have been obliged to have joined as principals in both these wars, even supposing that France had given us no particular provocation: but it is well known, that at the Revolution France openly assisted the late king James in opposition to our new establishment; and just before the war began in queen Anne's reign, the king of France had put a most heinous affront upon the whole nation, by publicly owning the title assumed by the pretended prince of Wales upon the death of his father; so that at both these periods we could not in honour avoid declaring war against France, upon our own particular account, and without any regard to the common cause of Europe.

I shall grant, Sir, that during the whole time of the war in king William's reign, the House of Austria was engaged in a war against the Turks; and that during most of the war in queen Anne's time, it was engaged in a war against the Protestants of Hungary; but it cannot be said, that in the war with the Turks, that House refused to come to any reasonable accommodation; and the demands of the Protestants of Hungary were so high, that the emperor could not agree to them, without giving up in a great measure his sovereignty over that kingdom. I shall likewise grant, Sir, that several of the princes of Europe did not shew themselves so much concerned about either of these wars as they ought to have done, and that even some of these confederates did not act so vigorously as they might have done; but was this a reason for our not acting with our whole force, and in the most vigorous manner, in a cause where our immediate safety was at stake? Suppose I should be one of a number of travellers attacked by a gang of banditti, who murdered all they could overcome; and suppose that of my fellow travellers some should do nothing in their own defence, and others should act but faintly, would this be a reason for my submitting tamely to be slaughtered, especially, if by acting bravely and vigorously I had a good chance for saving both myself and my poltroon companions?

In the wars, therefore, both in king William's and queen Anne's time, we did nothing but what we were obliged to do for our own safety; and if we did not pursue the war at sea, or in America, so far as we ought to have done, it was owing to the opposition the court always met with in parliament, which prevented their getting or even demanding any more supplies than were absolutely necessary for carry-

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ing on the war upon the continent of Europe with any hopes of success; for I must observe, Sir, that when the dispute happens to be about preserving a balance of power in Europe, the war upon the continent, which gentlemen are pleased to call a land war, deserves the most immediate care of our government; and therefore, when by any opposition in parliament, our ministers are reduced to the fatal necessity, that they must either neglect the war at land, or that at sea and in America, they must neglect the latter in order to take care of the former; and the reason is very plain, because our conquests at sea, or in America, would in the end signify nothing if, while we were busied about them, the French should make themselves masters of the continent of Europe. In the present circumstances of Europe, I shall grant, that we are able by ourselves alone to carry on a war at sea and in America both against France and Spain, with a probable view of success; but if they should make themselves so far masters of Europe, as to have it in their power to command the Dutch, and all the other maritime powers of Europe, to join with them against us, no one can suppose, that we could be able to carry on even a naval war against all the powers of Europe united against us; and supposing we should conquer all the French and Spanish settlements in America, while they were employed in bringing Europe under subjection, they would then be able to recover from us what they had lost in America, and not only to conquer what we possess in that part of the world, but at last to bring this island into the same thraldom with the rest of Europe.

This consideration, Sir, will justify the conduct of our ministers in the wars of king William and queen Anne: this will justify every treaty, and every alliance, we have made ever since the Revolution; and this will justify our engaging in the present war upon the continent, as well as the conduct of our ministers in their method of carrying it on. We are to prosecute the war at sea and in America as far as we can; but we are not for that purpose to neglect the war at land, much less to leave our allies upon the continent as a sacrifice to the superior power of France and Spain; and if in the present war we should be blessed with the same success at land as we had in queen Anne's war, and not cursed with such treaty-makers as put an end to that war, we may at last force both the French and Spaniards to make us what concessions we please in America, without projecting expensive expeditions into that distant part of the world, which, however well concerted, experience has shewn to be always dangerous and uncertain.

From these general observations I must beg leave, Sir, to descend to the particular consideration of the present war upon the continent. Does any one suppose, that we engaged in it as auxiliaries, for as such only we engaged in it at first? I say, does any one suppose, that we engaged in it merely for the sake of the queen of Hungary, or from a pure principle of generosity, in assisting the distressed, though even that would not have been a bad motive? No, Sir, we engaged in it for our own safety, as well as the safety of Europe. The power of the House of Austria has for a century at least been thought the only proper balance for the power of the House of Bourbon. The French themselves have thought so, because the whole bent of their politics has been, to pull down the power of that House; and they never had a better opportunity than upon the death of the late emperor Charles 6. If they had got the dominions of that House divided and parcelled out to the king of Prussia, the king of Poland, and the elector of Bavaria, and the last established in the imperial throne, they would have succeeded to their wish: no balance could after that have been set up against them, nor would any power upon the continent of Europe have dared to disobey the orders they received from the court of Versailles. What a condition should we then have been in? We were engaged as principals in a war with Spain: we knew that our enemies were underhand assisted by the French: we were well assured, that the French would declare openly against us, as soon as they could venture to do so with any safety to themselves: if they had been enabled to give law to the rest of Europe, which they would have been by parcelling out the dominions of Austria to their friends, and placing their vicegerent upon the imperial throne: in this case, I say, could any power in Europe have refused to join them against us? Consequently, we should have had the whole maritime force of Europe to have contended with, and not a foreign port in Europe open either to our men of war or merchant ships. I am by nature as partial in favour of the power of my country, as

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any man ought to be; but I am not quite so mad as to imagine, that even by sea we could have contended with such a multitude of enemies, such a deluge of misfortunes. Therefore, the wisest course we could take was to prevent this catastrophe, by giving the queen of Hungary all the assistance in our power. By so doing we have already in a great measure prevented it: we are now in a fair way of freeing ourselves from any future dread of it, by restoring the balance of power in Europe. But if we should withdraw our assistance: if we should neglect the war at land, for the sake of prosecuting it with the more vigour at sea and in America, we should again expose ourselves to the same danger, and, if possible, increase it, by raising in our present allies a violent resentment against us.

As the Dutch, Sir, are now heartily engaged in the war, and will act with the utmost vigour; as a large body of Russians are now ready to begin their march to the Rhine: as the king of Sardinia is resolved to act as he always has done, with great honour and courage: and as the empress queen of Hungary is resolved to augment her quota of troops in the Netherlands; if we continue to assist in the war at land, we may probably next year gain a superiority of the French and their allies, both in Italy and the Netherlands: but if we should withdraw our assistance from the war at land, the French would every where have the superiority, in which case the Dutch would be obliged to accept of a neutrality upon any terms, the king of Sardinia would be obliged to do the same, the Russians would stay at home; and the House of Austria being thus deserted by all its allies, would be reduced to the necessity of submitting to the House of Bourbon; so that the present emperor would become what the last would certainly have been, his most christian majesty's vicegerent upon the imperial throne. Suppose, Sir, that in the mean time we had made some conquests in America, would not our allies, out of resentment, as well as out of fear, resolve to join with the House of Bourbon, in forcing us to restore the conquests we had made, by treacherously deserting them? Could any power in Europe refuse to join the House of Bourbon against us? And in such circumstances it would be happy for us, should that House confine their ambition to a restitution of what we had taken from them.

I hope, Sir, I have now so clearly shewn the weakness of the arguments made use of by the hon. gentleman who spoke last, and so distinctly pointed out the fatal consequences of the advice he gave us by way of conclusion, that no gentleman will approve of the former, or agree to our following the latter; but before I sit down, I must make some observations upon two other maxims, which the hon. gentleman was pleased to favour us with. The first was, Sir, that as we are a trading nation, we ought not to supply the public expence by taxes which affect our commerce or manufactures. So far do I approve of this maxim, that I could wish with all my heart, if it were possible, to see every port in the kingdom made a free port, that is to say, to have no customs or duties payable upon the importation or exportation of goods at any port in the kingdom. But is this possible, Sir? Money must be had some way or other for supporting our government; and no money can be had but by taxes of some kind or other. Those taxes must either be by way of land-tax, poll-tax, hearth-money, window-tax, or taxes upon consumption; and these last must be raised either by way of custom or excise. As to the land tax, we know how difficult it was to get the parliament to consent to it at the time of the Revolution, and how many frauds were made use of for concealing the true value of estates, though the country was then in so much danger, and the new government in such distress for money. We know what heart-burnings were raised by the tax called hearth-money in the reigns of Charles and James 2: we know what discontents were raised in king William's time by the poll-tax; and we know what a combustion was lately raised in this kingdom, by an attempt to raise the duties on tobacco and wines by way of excise: therefore, if money be raised by taxes upon consumption, and those taxes levied by way of customs upon the importation of goods, it is not the fault of the government but the fault of the people, who will not submit to any other methods for raising money. Such taxes, I shall grant, affect in some measure our commerce and manufactures; but as the duties paid upon importation are mostly drawn back upon re-exportation, I believe, there is no country in the world where their commerce and manufactures are less affected by their customs or taxes than in this; and it must be allowed, that

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since the Revolution, and especially since the accession of the present royal family, both our commerce and manufactures have been considerably eased by the laws made for freeing almost all sorts of goods from the payment of any duties upon exportation, except those sorts which we ought not to allow to be exported at all, or at least not without enhancing the price by a duty upon exportation.

Now, Sir, as to the other maxim the hon. gentleman was pleased to impart to us, which was, that even in time of war we ought to raise as much money within the year as shall be necessary for answering the current service of that year; I shall grant, that this ought to be done, if it be possible, but there are two reasons which may, and do often, render it impossible. In the first place, those who pay the taxes must subsist, as well as those who subsist by them; how can the former subsist but by the income of their estates, trade, or business, clear of all taxes? Now a war may become so heavy and expensive, that if we were to raise the whole necessary expence within the year, we should not leave enough for the subsistence of those who pay the taxes; and in such a case we must necessarily run in debt. The other reason, which often renders it necessary for a government to run in debt, is this: all governments must have a regard not only to what the people are able to pay, but what they are willing to pay, and the manner in which they are willing to pay, without being provoked to a rebellion. This often makes it necessary for a government to run in debt, as well as to raise money for the public service, in the most improper manner, especially when they are engaged in a war for preventing a remote danger; for as the people in general are not sensible of remote dangers, they are extremely unwilling to contribute a great deal out of their yearly income, towards preventing such dangers. Thus in the years 1689 and 1690, it was with some difficulty that the people were prevailed on to agree to a land tax of one or two shillings in the pound, because by the extraordinary and sudden success of the Revolution, the danger was removed from their own doors, though it is very certain, that if the king of France had succeeded in all his then views, particularly that of getting his son the Dauphin elected king of the Romans, he would have sent king James back upon us with such a force as we could not have resisted; and it is certain, that if king James had been then with a formidable army of Papists in any part of England, there were few Protestants in the kingdom, who would not have cheerfully parted with 18*s.* in the pound to have got rid of such an apparent danger.

Sir, it was this insensibility of the people, and the danger of raising a general insurrection, which from this insensibility the government had just reason to apprehend: I say, it was this that forced the government at that time, and often since that time, not only to run in debt, but to contrive funds for that purpose, by increasing the customs or duties payable upon the importation of goods and merchandize; for if the government could then have ventured to propose, and the people had cheerfully submitted to pay a land tax of 4*s.* in the pound annually towards the public expence, and to have had their estates valued at the full and true value, it would neither have been necessary for our government to have run in debt, nor to have loaded our commerce with duties payable upon importation; because such a land-tax would, I am convinced, have brought in at least four if not five millions yearly, and that, with the excises we had before or soon after submitted to, would have defrayed the whole yearly expence we were at, either in that or the following war.

But, Sir, what does all this reasoning, or these wise maxims now signify? We are now engaged as principals in a land war, and we must go on with it till we can obtain a safe and honourable peace, otherwise, as I have shewn, we shall bring inevitable destruction upon ourselves: we must now in time of war run in debt yearly; for without doing so, we can carry on no war, not even a naval war: and we must increase that branch of the public revenue, called the customs, as a security for that new debt; because, I believe, no minister will dare to propose increasing either the land tax, the window tax, or the number of our excises; and as little will any minister dare to propose renewing either the poll-tax, or the tax called hearth-money.

To conclude, Sir, as we must continue the war by land as well as by sea: as we must for that purpose contract new debts: as we must establish a new fund for those new debts: and as I can think of no fund that will be less detrimental to our commerce, or occasion less discontent among the people, than what is now proposed, I

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think no gentleman who wishes the continuance of our present happy establishment, can oppose it; and therefore I shall most heartily agree to the motion made by my hon. friend.

Mr. *Samuel Martin:*

Sir; I believe when gentlemen become ministers of state, they fancy that their heads grow longer, and that they can foresee dangers, which none but themselves can form the least idea of. What may be the effect in other countries of a man's being made a minister of state, I do not know; but in this I could never observe any alteration: our ministers continue to be as much round-heads as ever they were before, and whatever they may pretend, when their fancy is prompted by their interest, we find by experience, that they can see no farther into futurity than most other men in the kingdom. Therefore, when we hear a minister, or the tool of a minister, talking of remote dangers, which the people are not sensible of, we should consider how his interest stands affected, in order to judge whether he may not from thence be prompted to frighten us with dangers which are imaginary; and if we examine our late history by this rule, I believe, we shall find some weight in the arguments made use of for shewing, that in the wars both of king William and queen Anne, we engaged ourselves at land farther than was consistent with the true interest of this island. King William was led by his ambition, as well as by the interest of his native country, to be fond of putting himself at the head of a great army for pulling down the power, and curtailing the dominions of France upon the continent; therefore it was the interest of his ministers to induce this nation to contribute as far as we could, towards forming and maintaining that army. For this purpose the ambitious views of France, and the dangerous consequences of those views, were magnified to the highest pitch: but in my opinion, whatever were the views of the French when they entered Germany in 1688, the unexpected suddenness of the revolution in England, and the success of the imperial arms against the Turks, both in that and the following year, put an end to their views, and freed us from all danger of their being in a condition to assist king James with such a force as we could not resist.

After these events, Sir, the balance of power in Europe, and the liberties and religion of this kingdom, were so far from being in danger, that if proper care had been taken of Ireland, and the emperor had in the year 1689 or 1690 made peace with the Turks, a successful war might have been carried on against France at land, with very little of our assistance and then we should have been left at liberty and in a condition to prosecute the war against them at sea and in America, by which alone we could reap any advantage to ourselves. But with respect to Ireland, Sir, it really seems to me, as if our new ministers here had a mind there should be a rebellion against them in Ireland, that their new master might, from the forfeitures in that kingdom, have wherewithal to supply their wants and gratify their avarice; for though king James had retired to France, and the tranquillity of England was fully restored before Christmas 1688, yet no care was taken to send an army to reduce Ireland, which was then in the hands of the Papists, or to protect the Protestants in that kingdom, till the month of August following, when the duke of Schomberg set sail from Chester, but with so small an army, and so ill provided, that he was forced to remain upon the defensive the whole winter, so that the affair of Ireland became not only serious but dangerous; whereas, had an army of 10 or 15,000 men been sent thither in January or February, 1689, it is probable, that the whole kingdom, Papist as well as Protestant, would have presently submitted to the new government.

Then, Sir, as to the emperor's making peace with the Turks, I was surprised to hear it said, that he could not at the time of the Revolution make peace with them upon reasonable terms, when it is so well known, that in the years 1688 and 89, the Turks sued for peace, having sent ministers to Vienna for that purpose, and that the emperor might then have had better terms than he was afterwards forced to agree to in the year 1699: and the reason is plain, because in 1689 he was in possession of Belgrade, Nissa, and Widdin, all which he lost the very next campaign, and could never recover during the remaining part of the war. But as this nation had engaged so heartily in the war against France, he thought he might in a great measure trust the prosecution of that war to us, and therefore resolved to pursue the advantages he had obtained over the Turks; whereas, if we had made his concluding a peace with the Turks a con-

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dition of our engaging at all in the land war against France, the condition would have been accepted, and in that case the emperor and empire, with the Dutch and Spaniards, and a very little assistance from us, would have been a confederacy sufficient for carrying on the war at land with a probable view of success, especially as we could then have applied ourselves vigorously to the carrying on a naval war, and by that means could in a short time have put an entire stop to the French commerce, and dispossessed them of every foot of land in America.

I come now, Sir, to consider the war in queen Anne's time, and the cause of our engaging so deeply in carrying it on by land. At that time I shall grant, the power of France was, by the accession of Spain, become more formidable than ever it had been since the death of Charles the Great; and yet without us, a confederacy might, I think, have been formed sufficient for preventing its being in the power of the House of Bourbon to give law to the rest of Europe; but as the scheme of that war was formed before king William's death, the interest of our ministers was then the same as at the beginning of the former war; and as the duke of Marlborough governed the counsels of queen Anne, both his ambition and interest led him to approve of what had been done, and to pursue the scheme that had been concerted at the end of the preceding reign. This nation was again to be brought in to be the principal support of the land war against France, and for this purpose we were again frightened with universal monarchy, Popery, slavery, and the Pretender, and such like hobgoblins.

When I say this, Sir, I do not mean to insinuate, that we ought not to have declared war against France either at the time of the Revolution, or the beginning of queen Anne's reign. No, Sir: at both these periods we had sufficient provocation; and in a war against that nation, if carried on in a proper manner, that is, by sea and in America, and conducted with wisdom and vigour, we shall always, I hope, have a good chance for gaining both honour and advantage; but for this purpose we have no occasion for any foreign alliance, or for any confederacy upon the continent of Europe; and therefore we ought never to be first in proposing or entering into such a confederacy, nor ought we to give the least hopes of our being at the principal expence in supporting such confederacy. This has been done, this may hereafter be done, but it never was, nor never will be done upon the principle of a true British interest; some foreign interest, or some selfish interest in our ministers, must always be the cause of such a conduct; and when they dare not avow the true cause of their conduct, they will always pretend to see remote dangers, or disadvantages, which none but themselves can get the least glimpse of. Thus in queen Anne's time we were prevailed on to become the chief support of that war at land, without stipulating, as we ought to have done, the least satisfaction for our fellow Protestants in Hungary; for it is a mistake to say, that the emperor could not yield to their demands, without giving up his sovereignty; because they then asked no more than the queen of Hungary wisely granted them at the beginning of this war. Thus in 1725, Don Carlos was made the hobgoblin for frightening us into the treaty of Hanover; and thus we have been lately frightened with French universal monarchy, as the certain consequence of our refusing to defend those who have hitherto seemed to think themselves in no danger.

By what I can find, Sir, the imagination of our ministers seems to be as fruitful in hopes as it is in apprehensions; next year, it seems, we are to be superior to the French both in Italy and the Netherlands; next year we are to bang them heartily in both these places; nay, so heartily, that by the end of the next campaign, we shall be able to compel both them and the Spaniards to make us what concessions we please in America. These are hopes, Sir, which experience has taught me not to flatter myself with. Our armies upon paper have generally in the winter made a very fine appearance; but they have always fallen surprisingly short when they came to appear in the field. But, supposing that they should be next campaign superior in number to the French, it is not the first time that I have heard of a superior army's being beat by an inferior one, commanded by a good general. Again, supposing not only that our armies should be superior in number to the French, but that we should beat them both in Italy and the Netherlands, the fate of the war in queen Anne's time must teach us, that the French are not to be compelled to sue for peace by one unfortunate campaign; and I do not see how we can support another at the same expence. And lastly,



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supposing next campaign should be so unfortunate on the part of the French and Spaniards, as to force them to sue for peace, how can we be assured, that our peace-makers will ask any concessions for us in America? If we judge from experience in queen Anne's time, we must suppose, that they will not: I do not mean, Sir, those cursed peace-makers that concluded the war by the treaty of Utrecht, but those blessed ones who continued it by the treaty at Gertruydenburg; for by the latter there was not so much asked for as was granted by the former; and unless we do as we did in that war, unless we desert our allies, I am afraid, they will insist upon our asking so much for them, that they will leave us no room to ask any thing for ourselves: I wish they may not insist upon our restoring what we have got by the war, in order to procure some restitution for them; but this, I hope, no British minister will ever agree to.

In short, Sir, we have by some means or other brought ourselves into such unfortunate circumstances, that with regard to the war, I shall not pretend to say what we ought to do, or what we ought not to do; but with regard to the proposition now before us, I can say what we ought to do, and I will say we ought to reject it, let the consequences be what they will; because, if we agree to it, our case will soon become more desperate in time of peace than it is now in time of war. Whilst the war continues, we may not perhaps feel the fatal effects of the tax now proposed; because, by the superiority of our navy, the French will be prevented from rivalling us in any branch of our commerce: but the moment peace is restored, they will begin to rival us as they did before the war began, and by this tax they will be enabled to outdo us in every one. I am surprised to hear gentlemen say, that this consequence will be prevented by the duty's being drawn back upon re-exportation. Do not they consider, that the less stock in ready money is required to carry on any trade, the more our merchants may extend that trade; and that when high duties are paid upon the importation of any sort of goods, though those duties be paid back upon exportation, yet it requires a much larger stock of ready money to deal in those goods, than when no duties are payable upon importation? The many duties already payable upon importation are a great cramp to our trade, and prevents this island's being the magazine of the world, which it would be, if our commerce were not subject to this inconvenience; but this additional duty will put at most an entire stop to our merchants dealing in such goods as are to be imported here, in order to be afterwards exported to a foreign market.

Another disadvantage is, Sir, that it will enhance the price of such goods at all foreign markets; for though the duty be drawn back upon exportation, yet the merchant loses the use of his money whilst the goods lie in his warehouse here, and this he must make good by selling his goods at a dearer rate when he exports them to the foreign market. Suppose a merchant imports 1,000*l.* worth of goods, and keeps them two years in his warehouse before he finds an opportunity to export them to advantage, if he paid no duty upon the importation, this parcel of goods would go to the foreign market with the additional charge of two years interest upon 1,000 only, which is 100*l.* but by his paying this duty alone upon importation, which will amount to 50*l.* his parcel of goods must go to the foreign market with the additional charge of two years interest upon 1,050*l.* which is 105*l.*; and if a French merchant can sell such a parcel of goods for 1,100*l.* and he cannot sell his parcel under 1,105*l.* we may easily judge, which of them the buyer will choose to deal with.

I know it may be said, Sir, that both these disadvantages may in many cases be prevented by giving bond for the duty; but this, I believe, is seldom done, and never can be often done, as long as we have any merchants of credit in the kingdom; for as the merchants save ten per cent. by paying down the duty, and as it is a great trouble both to him and his friends, besides the expence, to give bond for it, no merchant of any credit will give bond for the duty: nay, it is enough to ruin any merchant's credit, to ask his friends to join with him in a bond for the duty; therefore, neither of these disadvantages can by this method be prevented, and considering the high rate of tobacco in the book of rates, and the high duties already payable on tobacco even of our own plantations, the last of these two disadvantages must ruin our foreign trade in tobacco, (which is now one of our chief exports to France) if ever that nation should come to rival us in the tobacco trade. This, Sir, I take particular notice of, because the French have now got large plantations of



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tobacco upon the river Mississippi, which they encourage as much as they can, and in which they produce the same sort of tobacco produced by our planters in Virginia; so that their becoming our rivals in that trade, does not seem to be so remote a danger as what we are now, and have long been frightened with, of their becoming absolute masters of Europe, and by that means planting Popery and the Pretender in this island. They may perhaps succeed in planting tobacco; but, I think, they have no great chance for succeeding in this last sort of plantation.

Another branch of our commerce, Sir, which must be greatly affected, if not ruined, by this additional duty upon importation, is our East India trade. Every gentleman, I believe, knows, that the great national advantage made by that trade, is by exporting our East India goods to some of the foreign markets, or to our own colonies in the West Indies: they are imported by the company, but they are exported by our merchants, who buy them at the company's sales, loaded with all the duties payable upon importation, which the buyers cannot draw back, till they enter those goods for exportation, and even then they receive only a debenture, which is not presently paid; and sometimes they are obliged to keep these goods in their own warehouses, perhaps, near a year, before they can find an opportunity to export them with any prospect of advantage; during all which time they must lie out of the money paid for the goods at the company's sale, and consequently the goods must go to a foreign market loaded with the interest of that whole sum; whereas, if no duties were payable upon importation, they would go to the foreign market loaded with the interest of the real value only. For example, Sir, I shall suppose that a lot of East India goods, now sold for 1,000*l.* at the company's sale, would sell for 800*l.* if not charged with any duties upon importation; and I shall suppose, that the whole 200*l.* additional price now paid on account of duties, is drawn back upon exportation, yet this lot of goods must go to a foreign market loaded with a year's interest of this 200*l.* more than it would have been loaded with, if no such duties had been payable upon importation; consequently the English merchant must at a foreign market insist upon having 10*l.* more for this lot of goods, than a French or Dutch merchant may sell such a lot of goods for. This, Sir, is the case at present, but if the tax now proposed takes place, a lot of East India goods which now sells for 1,000*l.* must then sell at 1,050*l.* and consequently the English merchant who keeps the lot a year in his warehouses, waiting for a foreign market, must at that market have 12*l.* 10*s.* more than a French or Dutch merchant may sell such a lot for; and from thence it is, I think, certain, that this new duty will absolutely ruin our East-India trade, so far at least as relates to the exportation of such goods; for no merchant will chuse to deal in that way, if he finds he cannot venture to keep the goods by him, in order to watch an opportunity for exporting and selling them to advantage.

Thus we see, Sir, that even in cases where this duty is to be drawn back upon exportation, it will greatly injure our commerce; but there are many cases where it will be impossible to draw back the duty: this will be the case with respect to most of our manufactures made up of foreign materials, or in the manufacturing of which any foreign materials are made use of. I know, Sir, that the chief foreign ingredients made use of in dying are free from all duties, and consequently will be free from this; but there are still many such ingredients that are subject to duties, and consequently will be subject to this, so that it will be a new blow to our woollen and silk manufactures. Then as to our manufactures of iron, steel, copper, brass, ivory, furs, and all sorts of foreign woods; it will in most cases be impossible for the exporters to entitle themselves to any drawback; and there are several foreign materials made use of in our manufacture of glass, which materials must pay this duty; but it will be impossible for the exporters of our glass manufactures to entitle themselves to any drawback. The same may be said with regard to soap, and several other things, which it would be too tedious to mention; so that, I am afraid, this tax may prove to be the finishing blow both to our commerce and manufactures.

This, Sir, is what we ought to be more afraid of, than we need be of France's becoming sole and absolute mistress of the continent of Europe; for if there were any reality in that danger, or any just ground for such a fear, we should see the princes and states upon the continent exerting themselves in another manner than they do at present, or ever have done, since the time this phantom first began to

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be made use of for running this nation in debt and loading it with taxes. What our ministers are to do, Sir: whether they are to leave our allies upon the continent to take care of themselves, and confine our military operations to our proper element: or whether they are to contrive some other method for raising money, in order to support the war at land, is what I shall not take upon me to advise; but the method of raising money now proposed is neither what I can, nor ever will agree to.

*Mr. James West:*

Sir; I wish the hon. gentleman who spoke last, had more attentively considered what my hon. friend near me, who made this motion, concluded with. He concluded with telling us, that money must be had, and a sufficient fund for raising that money must be established; therefore, to start objections and suggest inconveniences against what he proposed, without offering any thing else in its stead, could answer no end but that of alarming the people, which might be of the most fatal consequence in this dangerous conjuncture. This, I am persuaded, the hon. gentleman did not attend to, or forgot, otherwise he would not have been so particular in stating all those inconveniences with which the tax now proposed must be attended. That it will be a little inconvenient to our merchants importers; that it will add a trifle to the price of those goods that are re-exported to a foreign market, especially, if they lie a year or two in the merchants' warehouses here: and that it will enhance a little the price of such of our manufactures as are made up, in whole or in part, of foreign materials, are consequences, and bad consequences too, which can neither be denied nor prevented. These consequences were all, I am certain, fully considered by my hon. friend before he made his motion; but these consequences, bad as they are, he saw, and every gentleman must see, are not near so bad, as those which would have necessarily ensued from any other tax, or additional tax, that, in my opinion, could have been thought of; and I should be glad if any gentleman would give me cause to alter my opinion, by proposing some other method for raising the supplies necessary for the ensuing year; for I promise for myself, and, I believe I may for all my friends, that any such proposition shall be received with the utmost candour and attention, and most cheerfully adopted, should it appear to be liable to fewer or lesser inconveniences than the proposition now before us.

But, Sir, instead of attempting any such thing, the only other proposition hitherto made, is that of our lessening our expence for the ensuing year; and how are we to do this? Why, by dishonourably deserting our allies, by being guilty of a most glaring inconsistency in our proceedings, by putting a most heinous affront upon our sovereign, and by exposing our country to what I think inevitable ruin. With regard to our allies, Sir, and first with regard to the House of Austria, by how many solemn treaties do we not stand engaged to defend that House, not only with a certain number of troops, but with our whole force, as often as it shall become necessary? And will any one say, that this case of necessity does not now exist? Then, with regard to the Dutch, we not only stand engaged by many solemn treaties to defend them, with our whole force, as often as it shall be necessary, but our honour is still further engaged, if possible, because they have drawn themselves into the war at our request, and by furnishing winter quarters to our troops. And, lastly, with regard to the king of Sardinia, we have not only engaged to furnish him with a certain sum of money yearly towards carrying on the war; but our honour is still farther engaged, because he was drawn into the war by our means; and if any thing can be supposed to add to that obligation, it is his having performed so honourably and bravely every thing promised on his part, and his having so stedfastly and generously rejected all the advantages offered him again and again by our enemies.

If we consider this, Sir, we must admit, that it would be in us the most dishonourable part ever acted by any nation, to desert our allies at this critical conjuncture, and, as the gentlemen propose, to leave the continent to take care of itself; but this is not all, our rejecting this proposition without substituting some other in its room, would be such an inconsistency as was never, I believe, acted by any assembly of men. We have already voted, that 6,300,000*l.* shall be raised by transferrable annuities, together with a premium of 10*l.* per cent. to the subscribers: we have already appointed the times when the money to be raised by these annuities shall be paid in; and in confidence that

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we would provide a proper fund for the payment of those annuities, a very large sum of money has already been advanced: can we, after this, refuse or neglect to provide a proper fund for this purpose? would not our refusal, or neglect, be such an inconsistency in our conduct as, I am sure, this House was never before guilty of?

Then, Sir, with regard to our sovereign, we know that he has already entered into treaties with several foreign princes, by which he stands engaged to pay several subsidies, and several large sums of money for the troops which they have respectively promised to furnish him with, some of which troops are already in our army in Flanders, and the rest upon their march thither: would it not be putting an high affront upon his majesty, should we separate without enabling him to perform his engagements? Can this be done without raising money? Can money be raised without establishing a proper fund for the purpose? Nay, Sir, I must think, that such a behaviour in us would be something still worse: it would be a sort of breach of faith towards our sovereign. Have we not by our addresses, in former sessions, approved of his majesty's engaging to assist the queen of Hungary to the utmost of his power? Have we not promised to enable him to concert such alliances, and pursue with vigour such measures, as might be necessary for re-establishing the public tranquillity, and procuring a safe and honourable peace? Have we not, at the beginning of this very session, given his majesty our most determined assurance, that we will, in the prosecution of the present war, support him to the utmost? Have we not promised to grant, in this session, to his majesty such supplies, as may enable him to carry on the war with vigour, and to support the mutual interest of his majesty and his allies? After such solemn promises, can we give the least countenance to a proposition for laying his majesty under a necessity to desert his allies, and to leave the continent to take care of itself? Would not our embracing such a proposition be justly deemed by the whole world without doors, a most notorious breach of faith towards our sovereign?

But now, lastly, Sir, I come to consider the consequences of this proposition; for from thence I hope to shew clearly, that it would be attended with the inevitable ruin of our country. Upon the first news of such a proposition's receiving any countenance from a British parliament, the Dutch would sue for peace upon any terms: can we suppose that, in such a case, the French would yield to them any part of their old barrier, or any part of the Dutch Flanders or Brabant, which they are now possessed of? No, Sir, the French would presently see our design of attacking them by sea and in America: they are sensible of their inability, with the assistance of Spain alone, to defend themselves in either of these places against us: and, therefore, they would grant peace to the Dutch upon no other terms, than that of their joining with them in a league offensive and defensive against the emperor and England.

Then, Sir, with regard to the king of Sardinia, upon our withdrawing our support from the war upon the continent, and putting a stop to the subsidy we are engaged to pay him, I need not say, he would presently enter into a treaty with France and Spain; it would be no treaty: he must send them a *carte blanche*; and if they left him in possession of any of his ports upon the Mediterranean, they would at least prescribe, that during the war he should refuse to admit any British ship or vessel into any of his ports; and that he should join with them in forcing the emperor and empress queen to accept of what terms of peace they pleased to propose.

In this case, Sir, could their imperial majesties stand alone against the French and their new as well as old allies? If they did, their imperial diadem might be brought into imminent danger; therefore, we may suppose, they would yield the whole Austrian Netherlands to the French, and the greatest part of their Italian dominions to the Spaniards; and farther, that they would be forced to agree, that during the war between France and England, no British ship should be allowed to enter into any of their ports.

As soon as they had accomplished this, Sir, the House of Bourbon would send their orders to the king of Portugal, and all the princes and states of Italy, not to have any communication with this country on pain of their highest displeasure; and such orders would, we may depend on it, be punctually obeyed; for in such circumstances, who durst venture to dispute their commands? Nay, they might perhaps, by threats or money get all the ports of the Baltic, except the Russian, shut against us; and in this case, I should

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be glad to know how we could carry on even a naval war against the House of Bourbon, assisted by the Dutch. We might, it is true, fit out a most powerful navy; because all our merchants-ships, except coasters and those employed in the East and West-India trade, would of course be laid up in our harbours; but as neither the French nor Spaniards would then have occasion to be at the expence of keeping up numerous land armies, they might, in a year or two, be able, with the assistance of the Dutch, to provide a navy at least equal if not superior to ours; and then, instead of attacking them, we should find it difficult, if not impossible, to defend ourselves here at home, and at the same time protect our possessions in the Mediterranean and the West-Indies; for as to the East-Indies, the French, assisted by the Dutch, would presently be able to drive us quite away from that part of the world.

If what I have thus supposed, Sir, should be the effects of our deserting our allies, and leaving the continent to take care of itself, I may submit to every gentleman that hears me, whether it would not be attended with inevitable ruin to this nation; but as these suppositions may appear a little extravagant to some gentlemen, though they are far from appearing so to me, I shall suppose only, that by our withdrawing our support from the war upon the continent, the French should get possession, and by treaty hold the whole Austrian Netherlands, and that the Spaniards should get possession and by treaty hold a great part of the Austrian dominions in Italy. This, I think, is the least that can be supposed, as the indubitable effect of our withdrawing ourselves entirely from the war upon the continent; and this is an effect that, I am confident, the very next campaign would produce. Should we, in this case, have nothing to fear from the House of Bourbon, even by sea; they would then have nothing to fear from a land war, consequently, they would apply themselves wholly towards repairing and increasing their marine; and the Austrian Netherlands would furnish the French not only with an increase of revenue, but with a very great additional number of expert seamen. We know very well what a figure the French made by sea about the time of the Revolution, though they were then possessed of a very small part of the Netherlands: far from being in quiet possession of Lorrain, and their commerce and plantations not near so extensive as they are at present! yet they were then very near a match both for the Dutch and us at sea, and, therefore, I am afraid, that notwithstanding the present low condition of their marine, they might in a short time become an overmatch for us alone at sea, considering the many advantages they now have, or might have by our deserting our allies, and considering that they would be supported by the whole naval power of Spain and the two Sicilies; for I must observe, that should we desert the queen of Hungary, his Sicilian majesty would soon break through the neutrality he is now obliged to observe with respect to this nation.

Upon this supposition, therefore, Sir, which is the least we can make, I think it is evident, that in a year or two we should be in great danger of being overpowered even at sea; and if this should happen to be the case, the certain and immediate consequence would be, our being overpowered not only at land, but upon our own land, the land of this island of Great Britain; for if the French were once masters at sea, they could pour in what armies they pleased, and when they pleased upon us. Our ruin would thus become inevitable, and we should fall unpitied by any of the nations around us; for who would pity, who would aid a nation that had broke all faith with its allies, and shewn no regard to the most express stipulations in the most solemn treaties?

After what I have said, Sir, there cannot, I think be the least doubt made of its being absolutely necessary for us to support the war upon the continent to the utmost of our power, and for that purpose to enable his majesty to fulfil those engagements which he has entered into by our advice, and with our approbation. This we cannot do, without borrowing a large sum of money for the service of the ensuing year; and no sum of money can be borrowed, no person will lend, unless the parliament provides a fund sufficient for securing the repayment. I must, therefore, be of opinion, that to start objections, and suggest inconveniences against the fund now proposed, without offering any other, can be no testimony of any gentleman's regard for his country, or affection to our present happy establishment.

This, I am persuaded, the honourable gentleman who spoke last did not duly attend to; for this tax, as well as every

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other, must be attended with some inconveniences both to our commerce and manufactures; but we have this comfort, that no trading country is free from taxes, and taxes too that lie more heavily upon their trade and manufactures than this, or any tax we have, can do upon ours, therefore, if peace be restored, and such a peace as this nation may with honour agree to, I have no fear of our being undersold at foreign markets, by the French or any other people in Europe; because we have made, and shall make, I hope, to the end of the present war, such a figure in Europe as will entitle us to be as well treated at every foreign market as any of our rivals.

But, Sir, if we should now desert our allies, and thereby enable the French to dictate tariffs or treaties of commerce to all or most of the princes and states in Europe, they would stipulate such privileges and such advantages for their merchants at all foreign markets worth going to, that none of our merchants could pretend to sell any thing there: nay, the nation itself would be brought into such contempt among all foreigners, that our merchants and seamen would be ill used and contemptuously treated at every port they resorted to in Europe; and as the French would industriously propagate the contempt we had fallen into among our neighbours in Europe, they might prevail so far as to get our people treated after the same manner in all other parts of the world. For the sake of our trade and commerce, therefore, as well as for every other consideration that can be of any value to a people, we must support the war upon the continent, till we can procure honourable terms of peace for our allies and as honourable for ourselves.

To conclude, Sir, if any gentleman has a scheme for raising money to answer the present exigency of our affairs, which he thinks may be attended with less inconveniency than the present, let him lay it now before the House: if any gentleman can say, that in a little time he will be ready to lay such a scheme before us, I am persuaded, my hon. friend will agree to have the consideration of his postponed for a few days, that we may compare the two together, and chuse that which we think best; but if no other is to be offered, we have no choice to make, unless it be, whether we shall do the best we can to save our country, or sit still and see it ruined; which is a choice that shall never cost me a moment's consideration.

Mr. *William Beckford:*

Sir; it has been so usual, and so long practised by ministers, to represent every gentleman who differs from them in opinion, or disapproves of their measures, as a person disaffected to our present happy establishment, that I am surprized to find they do not begin to be ashamed of the practice. But why should I say, I am surprized? I confess I ought not to be surprized at any thing they do or say. It is the business, nay, it is the duty of ministers to point out the most proper funds for raising the supplies, which they think necessary for the public service: to them all projects for that purpose are presented; and if they adopt one which must necessarily ruin our commerce and manufactures, shall a gentleman be said to have no regard to his country, or affection for our present happy establishment, if he starts objections against such a project, without offering some other in its room? All such projects must, it is true, receive the approbation of this House; but it is well known, that none of them are ever laid before any member of this House, unless he be likewise a very principal member of the administration. How, then, can any of us, who have not the honour of a share in the administration, offer any project or scheme in the room of that we disapprove of? Every gentleman, therefore, must be left at liberty to object against the scheme proposed by the ministers; and if his objections happen to be deemed of such weight as to prevail with the House to reject what is proposed, the ministers must again have recourse to, and turn over their budget of projects, which, I reckon, is generally pretty well filled before the parliament assembles.

For this reason, Sir, I hope I shall not be deemed an enemy to my country, or to our present happy establishment, should I shew the fatal consequences of the scheme now before us, without offering any other. However, to make gentlemen easy upon this head, and to prevent even our ministers from loading me with any such suspicion, I shall tell them, that I have a scheme to offer, which, I am sure, will raise more money than the scheme now under our consideration, without being any way prejudicial to our commerce or manufactures, or burthensome upon any industrious man in the kingdom; but as I am very sensible, that my scheme will in this House, and much more in the other,



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stand in need of a very strong recommendation, I shall first endeavour to shew the fatal consequences of our agreeing to what is now proposed.

An hon. gentleman, Sir, who has already spoke in this debate, shewed you, how it would affect and in a great measure ruin our commerce and manufactures, with respect to several particular branches; and he shewed it in a manner which cannot be answered: he shewed by figures and calculations, which is a sort of argument that admits of no subterfuge or sophistical answer; therefore the hon. gentleman who spoke last, was forced to acknowledge the truth of what he said; and the only answer he attempted was, to assert, that the commerce and manufactures of other countries are more heavily taxed than they are in this: what countries he meant, I do not know; for I never read or heard of a country where the people were, or now are loaded with such heavy taxes, or such a number of taxes, as the people of this country are at present; and I am sure, that both in France and Holland, which are our two great rivals in trade, they have no tax that can directly affect their commerce or manufactures, because their taxes are all, or most of them, raised by way of inland duty; so that with regard to goods which are imported into either of those countries, and afterwards exported to a foreign market, the merchant is neither put to the advance of any money for the custom or duty upon importation, nor is he put to the trouble of ascertaining, begging for, and receiving a drawback upon exportation.

I shall not repeat, Sir, what my hon. friend has said much better than I can, about East-India goods, and some sorts of manufactures; but as he took no particular notice of sugars, and some other imports from our colonies and plantations in America, I shall beg leave to observe some of the fatal consequences of this tax, with regard to those imports. I shall begin, Sir, with this general observation, that as the people in all our settlements, either upon the continent or islands of America, are more exposed to invasions from a foreign enemy, and are liable to many other dangers and inconveniencies, which the people here at home are free from, we cannot expect that any of our people will go or stay there, without a view of making greater profits than they can expect to make by any business here at home; and as the strength of every colony depends upon the number of its white inhabitants, we should encourage as much as we can our spare people not only to transport themselves thither, but to stay and settle their families there. For this reason, we ought to promote the consumption here of every produce or manufacture of our people in America, that does not interfere with any home produce or manufacture; and consequently we ought never to load any such produce or manufacture with a high duty, especially such a high duty as may, with respect to many of our poor, amount to a prohibition.

After having made this general observation, Sir, I shall submit to gentlemen, whether it be right policy in us, to load sugars, and several other imports from our colonies in America, with such high duties as they are already liable to; and if this be wrong policy, if this must certainly tend to prevent the increase of our colonies, both as to the number of their inhabitants, and the quantities of their produce, can we approve of any scheme for loading them still farther, even as to the consumption here at home? It is a proposition, Sir, or rather a postulatum, as certain and evident as any in Euclid, that the higher you raise the price of any commodity, the less of it will be consumed: the consumption even of bread, the staff of life, would be very much diminished, were you to lay a high duty upon wheat and other sorts of corn. Let us consider, Sir, that sugar is the wheat or bread of Jamaica, and all our islands in the West-Indies: they cannot, it is true, make bread of sugar, but by sugar they get their bread, and every thing else they stand in need of; and neither the soil nor climate of these islands is fit for producing any other commodity, by which the inhabitants can subsist; so that the more you diminish the consumption of sugars, the nearer you approach towards rendering all those islands desolate and deserted; which will be the consequence, if you, by high duties, lessen the consumption, and thereby lower the price so much, that the planter cannot handsomely support his family by the produce of his sugar plantations; I say, handsomely, Sir, because the climate of our sugar colonies is so inconvenient for an English constitution, that no man will chuse to live there, much less will any man chuse to settle there, without the hopes at least of supporting his family in a more handsome manner, or saving more money, than he can do by any business he can expect

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in England, or in our plantations upon the continent of America; therefore, if you render the profits of a sugar plantation upon any of our islands very inconsiderable, the certain consequence will be, not only that no new sugar plantations will be set on foot, but also that many of those who are now sugar planters in our islands, will desert their plantations, and remove themselves, with their families and negroes, to our settlements upon the continent, or more probably to the French sugar islands, as some of them have lately done.

I know, it is said, Sir, that the duties upon sugar fall upon the consumer, and not upon the planter; but this, I likewise know is contested, and for my part I am of a middle sort of opinion. It will, I think, fall first upon the planter, but in process of time, by diminishing the produce, it will fall upon the consumer. To illustrate this, I shall suppose, that wheat now sells at 3*s*. a bushel, and that of this 3*s*. two goes to the expence of producing it, in which I include the subsistence of the farmer and his family, and one towards the rent: suppose then you should lay a shilling duty upon each bushel of wheat produced in England; do you think that such a duty would raise the price of wheat? Not at all, Sir, for this year at least; for Mr. Locke has long since told us, and every one knows, that the price of every thing arises from its quantity in proportion to its vent; that is to say, from the proportion between the quantity that must be sold, and the quantity that must be bought; and as your tax would neither diminish the one, nor increase the other, in any great degree, the price would continue much the same, and the tax would, for this year at least, fall chiefly upon the producer; but what would be the consequence? Every farmer in England would next year convert his arable lands to the producing of something else, or such of them as could not do so, would either obtain a diminution of rent, or desert their farms, especially if they could go to some other place, where they could live better by their labour and industry; and by this means the tax would at last be brought upon the consumer; that is to say, after one half of the arable lands in England have been deserted, or converted to some other use.

Now, Sir, give me leave to apply what I have said to sugars; and to make the parallel the more exact, I shall suppose, that of every 3*s*. worth of sugar, two goes towards the expence of producing it, including the subsistence of the planter, his family, overseers and negroes; and that the other shilling goes towards the duty now payable upon sugars. Suppose then, you lay 6*d*. more duty upon every 3*s*. worth of sugars, can you suppose that this additional duty will for a year or two fall upon the consumer? No, Sir, as I said before, with respect to wheat, it is not the duty but the proportion between the quantity and vent that regulates the price, and therefore, till the quantity be diminished, the tax will fall upon the planter, who must either diminish the expence of his family or desert his plantation; and with regard to all our small planters, the latter will be the consequence, which, I shall grant, will at last bring the tax upon the consumers here in England, by diminishing the quantity produced, and consequently raising the price; but as the raising the price must necessarily diminish the consumption, even the great planters, who may retrench a little in the expence of their families, must likewise diminish their produce, in order to keep up the price here; so that all the small plantations in our sugar islands will in a few years be quite deserted, and the large ones very much reduced.

Sir, as there are not many gentlemen in this House well acquainted with the facts relating to the sugar trade, I must beg leave to shew, that what I have supposed is not quite imaginary. It is generally computed, that after deducting the planter's expence in sending his sugars to port, shipping it on board, paying freight, insurance, commission, and all the other charges of sending it to the home market, and allowing for waste in the voyage, he has not above 12 or 14*s*. per cwt. free to himself, upon the finest muscovado sugar, and out of this he is now obliged to pay a duty of 3*s*. 6*d*. per cwt., so that he has not returned to him above 9 or 10*s*. per cwt., for answering all his charges in producing it, and maintaining his family in those islands where all the necessaries, as well as conveniences of life, must be purchased at an excessive rate; and if we suppose, that it is impossible for a small planter to produce sugars, and maintain his family in those islands, unless he has a return of 9 or 10*s*. per cwt. free of all charges and deductions, for all the sugar he sends home, what then will be the consequence of the additional tax now proposed?

To judge of this consequence, Sir, we must consider, that when the present tax

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upon sugars was first imposed, sugars sold at 50*s.* per cwt., and therefore, in the book of rates, they are valued at 30*s.* per cwt., though in time of peace, they are now sold at a medium for 24*s.* But suppose, that when peace is restored, our muscovado sugars should sell for much less, the planter must pay this new tax according as they are valued in the book of rates, and consequently must pay an additional tax of 1*s.* 6*d.* per cwt. Now as I have shewn, that for the first year or two, and till the quantity produced be greatly diminished, this whole tax must fall upon the planter; and as I have supposed, that a small planter cannot possibly retrench either in the expence of producing sugars, or the expence of maintaining his family, the necessary consequence is, that he must run in debt yearly, or give over producing any more sugars; and if he cannot turn his plantation to the producing of something else, he must desert it, and will probably retire with his negroes and family to some of the French sugar islands, which will very much reduce the number of white men in our islands, and consequently render them less able to defend themselves, in case of a new war.

It may perhaps be said, Sir, that if our planters cannot sell their sugars here at home, without loss, because of this new duty, they may send them to a foreign market, especially as they may now by a late act send them thither directly, without unloading or paying any duty new or old; and I shall grant, that during the war this may be done, if we make a proper use of our superiority at sea; so that by this means the new duty will be presently thrown upon the consumer; but this advantage must end with the war, for as soon as peace is declared, the French will rival and undersell our planters at every foreign market, because of the ridiculous and ill-timed restrictions in the act for granting a liberty to carry our sugars directly to foreign parts. Suppose a French ship from Mississippi, Canada, or Cape Breton, if it should be restored, brings a loading of lumber to any of the French sugar islands, a planter or merchant there may charter such a ship for carrying a lading of sugar directly from thence to the Mediterranean, Hamburgh, Holland, or the Baltic; but a merchant or planter in any of our islands cannot do so, by means of any ship arriving there with a cargo of fish or lumber from our northern colonies. No, Sir: by a restriction in the act I have mentioned, the ship that carries sugar directly from our colonies to any foreign part, must be a ship British built, the major part of the owners residing in Great Britain, and sailing from Great Britain, probably quite empty, with a licence from hence for this purpose; so that the English merchant or planter, who exports sugars from our islands directly to any foreign part, must be at the charge of a freight from Great Britain to the West Indies, which charge the French merchant or planter, who exports sugars from their islands to any foreign part, is quite free from; and this additional charge, it is computed, will amount to ten or eleven per cent. upon the whole cargo; from whence it is evident, that after peace is restored, and the French again at liberty to rival us, no English merchant or planter can pretend to send any of our sugars to a foreign market, if this restriction be continued; and we are generally so partial in favour of our people here at home, that, I am afraid, it will be impossible to get this restriction removed, till our sugar trade be reduced to the same state with our indigo trade: that is to say, till we have none of our own, and are obliged to import our sugars, as we now do our indigo, from our good friends the French.

For these reasons, Sir, I must really look upon the proposition now before us, if agreed to, as a *coup-de-grace* to our sugar colonies and sugar trade; and, I fear, it will be the same to all our plantations in America, because this, with the many discouragements and restraints we have already subjected them to, may force them at last to put themselves under the protection of France. But supposing that our sugar colonies should still subsist: supposing that we should still be able to export some of our sugars to a foreign market; surely it is our interest to endeavour to have them refined here at home, before they go to that market; but by what is now proposed, this will be impossible, because the drawback upon refined sugars exported, is not equal to the duty paid upon the muscovado sugars from which they are made: it is generally reckoned that 500 weight of the best muscovado sugar will not make above 100 weight of double refined; because 2-5ths become molasses, and of the 3-5ths remaining, 1-5th becomes a sugar very little superior in colour to muscovadoes, and another fifth but equal to clayed sugar; so that the remaining fifth only becomes what we call double-refined, and upon this the refiner is



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to have a drawback but of 3*s.* whereas the new duty paid by him upon the muscovadoes of which it was made, amounted to 7*s.* 6*d.* so that he must lay the difference, being 4*s.* 6*d.* upon the 200 weight of refuse sugars he sells here; and if he cannot, the foreign refiner will have a great advantage over him; especially as the foreign refiner may probably sell his molasses at a dearer rate than the British refiner can sell his; because the duty lately laid here upon the molasses, has reduced their price from 16 to 9 or 10 shillings the hundred weight.

Thus, I think, Sir, it is plain, that if the proposition now before us takes place, we shall put an end to our exportation of any double refined sugars; but this, I confess, does not give me any concern, because, if this new tax be agreed to, I am fully convinced, that we shall never be able to export sugars of any kind, after the next peace puts it in the power of the French to become our rivals at all foreign markets; and as it will demolish all our little planters, and, thereby, depopulate our sugar islands, I am afraid, they will become a prey to the French, the next war we happen to be engaged in against that nation; for if the inhabitants should become unable to make a tolerable defence, it will be easy for the French to surprize them one after another, even though we should preserve our present superiority at sea, which we are far from being sure of; especially, if we should follow the maxim lately introduced, of reducing greatly our naval force, in order to be able to keep on foot a numerous land army, which is directly contrary to what ought to be our maxim, because a naval force will always protect us against foreign invasions, and can never endanger our liberties; whereas a numerous land-force of mercenary troops, will certainly at last overthrow our liberties, and thereby provoke, instead of preventing, a foreign invasion: by preserving our naval force we may, when we please, make a prey of our enemies; by chusing in its stead such a land-force, we shall be made a prey of, first, by our domestic enemies, and at last by a foreign invader. Can such a choice be made by any man who has a regard for the happiness of his country?

After having thus shewn the danger to which our sugar colonies must be exposed by the new tax proposed, it would be proper enough to shew the importance they are of to Great Britain; but this, Sir, has been so fully done upon many former occasions, and is so well known, that I need not trouble you with any thing upon that subject, and, therefore, shall proceed to consider the causes by which it is pretended we are compelled to adopt such a dangerous, such a destructive scheme. It is said, we must carry on the war till we can obtain an honourable peace: we must have money for this purpose: for raising this money we must have a fund; and no other fund can be thought on, but what would be more dangerous and destructive than that now proposed. Thus we are told, your ship is on fire, and you must jump into the sea and be drowned, to save yourselves from being burnt. This, Sir, does not much redound to the honour of those who have had for so long a time the care and government of our ship. Have they left us no long-boat, no yawl, in which we may escape this danger? Our situation, if this were true, would really be not only melancholy but surprising, considering that no cross accident has happened, nor any misfortune but what they have in some measure been the authors of. But I hope to shew, that we are not yet reduced to such a dilemma; and that if we were, we have still a yawl in which we may escape, or rather an expedient by which we may save both ourselves and our ship, if we put the government of her into more careful hands; and in order to do this, I shall shew, that we may free ourselves of a great part of the burthen of the war upon the continent, without giving a just cause to accuse us of dishonourably deserting our allies, of being guilty of any inconsistency in our proceedings, or breach of faith to our sovereign, or of exposing our country to inevitable ruin.

As to our allies, Sir, I shall admit, that we stand engaged to assist both the queen of Hungary and the Dutch with our whole force; but what is our whole force? Surely, it does not mean, that in order to assist them, we shall this year borrow as much money as we can by the utmost stretch of our credit, and thereby become unable to assist either them or ourselves the next. Such stipulations can mean no more, than that we shall assist them as far as our free yearly revenue can supply, and when we are at war ourselves we are of course released even from this obligation, because they are as much obliged to assist us, as we are to assist them; therefore we could not be accused of any breach of those treaties, or of dishonourably deserting our allies, should we, in our present circum-

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stances, refuse to send a man to fight their battles, or to take any German prince or his troops into our pay for that purpose.

As to an inconsistency in our proceedings, we have, tis true, voted 6,300,000*l.* to be raised by annuities, and we must provide a fund for the payment of those annuities, which I shall shew, we may do without adopting the ruinous scheme now proposed; but we have not yet voted, that the greatest part of that money shall be applied, not to our own safety and advantage, but to the safety and advantage of our allies.

Then, Sir, as to our being guilty of any breach of faith towards our sovereign, let us consider, that as all speeches from the throne are in parliament supposed to be the speeches of the ministers, so all addresses by way of answer to such speeches, must be supposed to be made to the ministers. Suppose we have told them, that we will grant such supplies in this session, as may enable them to carry on the war with vigour, and to support the mutual interest of this nation and its allies: does that authorize them to enter into such engagements as must throw the chief burthen of the war upon the continent on our shoulders? Or if they should enter into such engagements, are we, from any thing we have said, obliged to make them good? Suppose they had entered into such engagements for carrying on the war upon the continent, as must have cost this nation twelve instead of six millions; should we have been obliged to make them good, under the pain of being deemed guilty of a breach of faith towards our sovereign? No, Sir: in such a case, the only thing we could do would be, to send such ministers to our allies, that they might place them in the front of the next battle, or punish them in any other manner they pleased.

Lastly, Sir, with regard to our exposing our country to inevitable ruin: we shall certainly do so, if we go on in the manner we have done, or as our ministers now seem resolved to do. If we take upon us the chief burthen of the war upon the continent, and neglect prosecuting it by sea and in America, we shall be undone before we can, by such a method, force the enemy to any reasonable terms of peace. But if we withdraw ourselves in a great measure, from supporting the war upon the continent, we shall see the queen of Hungary, the princes of Germany, and the Dutch exerting themselves in another manner than they have lately done; and we know from experience, they are able to do so. But lately, the queen of Hungary, with a very little assistance from us, drove the French from the gates of Vienna, and at last quite out of Germany; and in 1672, the Dutch drove the French from the gates of Amsterdam, though they were then so far from having any assistance from us, that we were at the same time at war with them, and did them infinite mischief by sea. Therefore, the apprehension, that the French may force the Dutch, and all the powers upon the continent of Europe, to yield a blind obedience to their orders, is a chimera that every man of common sense must smile at. They may, by surprise, make a great progress against their neighbours; but when the princes and states upon the continent of Europe have time to recollect themselves, and to unite for their common safety, they will always be able, without any assistance from us, to drive them back with disgrace; consequently, we can never be under a necessity to engage farther than is convenient for us in any war upon the continent; and when we do engage with any of the powers upon the continent in a war against France, the most effectual way we can assist our allies, will always be, to prosecute the war vigorously by sea, and in America. If we had done so in the present war, it would before this time have been ended by a peace advantageous as well as honourable for this nation; whereas, in the way we are carrying it on, I am afraid, it will end to our dishonour as well as disadvantage; for from the whole tenor of our conduct, I foresee, that when we come to treat of peace, we shall think more of saving the honour and interest of our allies than our own.

For this reason, Sir, I now before-hand enter my protest against sacrificing the honour or interest of this nation to the preservation of any one ally we have upon the continent. If they will not defend themselves with vigour, let them submit to a peace with dishonour; but we have no reason to do so: we are masters of the sea, and shall continue so as long as the war lasts, were it to last for twenty years to come. We may conquer from our enemies, they can conquer nothing from us, and our trade will improve by a total extinction of theirs; consequently we can have no British reason for concluding a peace upon dishonourable or disadvantageous terms; and to prevent our minis-

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ters from having any pretence for their being forced into such a peace by the want of supplies, I shall now offer a scheme for answering the large supply we have already voted, which will be sufficient not only for that, but for all the supplies we may probably stand in need of during the war.

Sir, it is well known, that there is no country in the world where those who serve the public in any degree or capacity are more plentifully, I may say, extravagantly provided for, than in this. Now my scheme is in short this: that all our pensioners, placemen, and officers, who possess either by pension, salary, pay, or perquisite, above 100*l.* a year, and under 200*l.* shall contribute the surplus above 100*l.* towards carrying on the just and necessary war we are engaged in; and that all of 200*l.* a year, or above, shall contribute one half of their income from the public, towards the same purpose. From this contribution, for I cannot properly call it a tax, I would not except even our learned judges and the other officers of justice; and in particular, I would include all clergymen of all denominations. The former will certainly contribute willingly to the support of a war, which, if unfortunate, may overturn our liberties and laws; and the latter will certainly contribute as willingly for supporting a war, upon the success of which the security of our religion depends; for if the French should succeed in all their ambitious views, they will force Popery and the Pretender upon us; and this last consideration will, I presume, induce all our pensioners, placemen, and officers, to join heartily in what I propose, because their pensions, places and offices depend upon the support of our present happy establishment.

As the public faith is engaged, Sir, to pay the interest growing due yearly to the creditors of the public, I would not propose forcing them to contribute any part of their yearly income towards the support of the war; but with me they stand in the same light with placemen and officers, or rather in a worse, because they live upon the public without serving the public; therefore, I think, when their country is in such distress, as has been represented in this debate, they ought, in generosity, to offer their assistance; and if you adopt my scheme with respect to pensioners, placemen, and officers, I hope, the public creditors will generously come in and desire to be subjected to the same regulation. Nay, I think, if they consider their own interest, which I am afraid, is their governing principle, they will certainly do so, because their principal, as well as interest, depends upon the support of our present happy establishment, and consequently upon the event of the war; for if the Pretender should be put upon us, which may be the consequence of the war's being unsuccessful, could they expect ever to receive one shilling, either of their principal or interest?

I therefore hope, Sir, the public creditors will save the public any appearance of breach of faith; but if their avarice should get the better of their generosity and prudence, which, I fear, it will, my scheme, with regard to pensioners, placemen, officers, lawyers and beneficed clergymen, will, I am sure, produce more than the scheme proposed; for if our ministers doubt of it, I will farm it at a million sterling a year, and give them better security than they usually have for my performing my contract. By this scheme, Sir, we shall be able to support the war, even in the way our ministers seem resolved to carry it on, not only for the next ensuing year, but for several years to come; and no one can say, that it will fall heavy upon our commerce or manufactures, or upon any industrious man in the kingdom: Nay, it will not fall heavy even upon those that are to be affected by it; for as no man can be affected by it, unless he be possessed of above 100*l.* a year, those who have above that revenue from the public, may easily spare what is proposed for the support of the public: both generosity and prudence should induce them to offer it; and if neither of these motives can prevail, there can be no injustice in compelling them to give; because every one of them will still have remaining a sufficient reward from the public for all the service he ever did, or ever can do the public; for in this country it has been of old observed, and still, I believe, holds true, that those who have the greatest share of the public money, have the least business to do, and really do the public the least service.

I have now, Sir, some gentlemen in my eye, and if I should look into another place I might see a great many more, who possess their hundreds and their thousands of public money yearly, without ever having done the public one hundred pounds worth of service: in a time of such public distress, it is fit that such gentlemen

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should be made to contribute largely to the public expence; and our enemies, as well as our allies, may furnish us with precedents for doing so; for if any credit can be given to our public gazettes, the court of Spain, soon after their declaring war against this nation, reduced all their pensioners, placemen, and officers, to one *half* the pensions and salaries formerly allowed them; and the court of Vienna did the same, soon after the war broke out in Germany. Why then should pensions and salaries be held more sacred in this country than they are either in Spain or Germany? Our public debts are, I am sure, much larger, and our people more heavily taxed, than in either of those countries; and if our pensioners, placemen, and officers, are to be believed, we are in as great danger as either of them from the event of the present war upon the continent. I could, indeed, suggest a reason why pensions and salaries are to be held more sacred in this country than in any other; but it is a reason that no man will dare to avow, nor any honest man deign to admit; and, therefore, I shall not put any gentleman out of countenance, by mentioning it in this august assembly.

I have now opened my scheme, Sir; I cannot say I have done it with any hopes of success; but I shall gain this advantage by it, that even the most zealous advocates for the other scheme cannot now accuse me of disaffection, though I have shewn, that their scheme will bring certain ruin upon our sugar trade and sugar islands, and, consequently, upon most of our plantations in America; and an hon. gent. near me had before shewn, that it would bring as certain ruin upon almost every other branch of our commerce and manufactures; but one manufacture he omitted taking notice of, which, because of its importance, ought, I think, to be particularly mentioned; and, therefore, I shall conclude with observing, that this new tax will entirely ruin our manufacture of hats, so far at least as relates to exportation, because the duty paid upon beaver wool, or skins from our plantations, cannot be drawn back when made into hats and exported; and upon this subject I cannot but observe a most extraordinary solecism in our politics; for beaver wool combed in Russia, and imported from thence in British ships, pays no duty, and yet the same sort of wool, if combed in our own plantations, as it might be, and imported from thence in British ships, must already pay a high duty, and is to be made subject to this new duty, which the beaver wool from Russia will be entirely free from.

In short, Sir, it is impossible to foresee, much more to enumerate all the ruinous consequences of the tax now proposed; and, therefore, I shall give you no farther trouble, but to sum up what has been said by me and other gentlemen upon this subject, in these few inferences; that this new tax will entirely ruin our foreign commerce, and likewise our manufactures, in a few years after peace is restored, and the French thereby enabled to become again our rivals; that the event of the war upon the continent is not of such dangerous consequence to us, as to induce us to ruin our commerce and manufactures for its support: that if the French should push their ambition or their conquests too far, the powers upon the continent might, and certainly would form a confederacy sufficient for giving them a check, without our assistance: that if all our allies upon the continent should make peace, we are able to carry on the war by sea and in America against the whole House of Bourbon, till we can compel them to submit to reasonable terms of peace: and that, if we do continue to support the war upon the continent in the manner we have done, we may find many funds for raising money for that purpose, particularly, the one I have mentioned, that will not be near so pernicious as what is now proposed; therefore, I hope, the hon. gentleman will excuse me, if I give my negative to his project.

*Debate in the Commons on the Bill for holding the Summer Assizes at Buckingham**.] Feb. 12. A Petition of the bailiff, burgesses, and other inhabitants of the county town of Buckingham, was presented to the House, and read; setting forth, "That the town of Buckingham, from whence the county of that name is denominated, was, in ancient times, the place where all the county business was transacted, and where the judges held the Assizes; but that for many years past it hath been usual, for the more convenient administration of justice to his majesty's subjects residing at the different ends of the county, which is of a great length, to appoint the summer assizes only, to be holden for the said county, at Buckingham, and the winter assizes at Aylesbury;

* From the London Magazine.

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and that the petitioners, to their great concern and surprise, have seen this regulation, which has been invariably pursued for many years, lately broken in upon by an appointment for holding the last summer assizes at Aylesbury, which was accordingly done: and therefore praying the House to take the premises into their consideration; and give leave that a Bill may be brought in for restoring to them the summer assizes, and fixing them there for the future."

On moving, That leave be given to bring in a Bill pursuant to the prayer of the said Petition,

Mr. *Richard Grenville* rose and said;

Sir; the holding the assizes at proper places in each county has always been deemed an affair worthy the consideration of parliament, and therefore in the 6th year of the reign of Richard 2, a general regulation was made by act of parliament by which it was directed, that justices of assize and gaol-delivery should hold their sessions in the chief towns of every county where the shire courts there use to be holden; but as this express and particular direction was soon found to be inconvenient, therefore by a new law passed in the 11th year of the same reign, it was enacted, that the chancellor by the advice of the justices, should have power to order it otherwise, 'if need should be,' notwithstanding the said statute.

Besides these two general laws, Sir, we have several particular laws for directing where the assizes shall be held in several particular counties; and upon our Journals we have numberless instances of Bills brought in for regulating this affair, many of which did not, indeed, pass into laws; but as they were ordered to be brought in, and received by this House, it is a proof, that this affair has always been thought worthy of our consideration.

With regard to the county of Buckingham, Sir, the town of that name was always, till the reign of Henry 8, deemed to be the county-town: the shire courts were held there, and the county-gaol was at the castle in that town, as appears by many ancient books and records; so that by the said acts of the 6th and 11th of Richard 2, the assizes should still have been held there, unless upon particular occasions, when it became necessary to hold them somewhere else; for I must observe, that by the said act of the 11th of that king's reign, the chancellor, with the advice of the justices, has not a discretionary power to depart from the direction of the former act, whenever he pleases; he is to depart from it only, 'when need shall be,' that is to say, when some accident shall make it necessary to hold the assizes at some other place in the county; and the truth is, that the assizes were generally held at the town of Buckingham till the reign of Henry 8, but towards the end of that reign, the lord chief justice Baldwyn purchased the manor of Aylesbury, which made it his interest to encourage and improve the town of Aylesbury as much as possible, and with this selfish view he got the shire courts, as well as the assizes, to be sometimes held at that town; however, the custom continued of holding them frequently at Buckingham, and for many years past, it had grown into a sort of established custom, to hold the winter assizes at Aylesbury and the summer assizes at Buckingham; against which custom, no complaint was ever made by any one gentleman in the county.

But this custom, Sir, was last summer broke into, for reasons which I shall not mention, unless I am called on; and for the same reasons, the town of Buckingham is like to be deprived of the summer as well as the winter assizes for several years to come, which will be a great loss to that town, and a great inconvenience to all the inhabitants of the northern part of that county. This, Sir, was the reason why I moved for leave to bring in the Bill which I now present to you; and for the same reason I shall now move for its being read a first time.

Upon a division of 114 against 124, leave was given to bring in the said Bill.

February 19. Mr. Richard Grenville presented to the House, according to order, a Bill for holding the Summer Assizes, for the county of Buckingham, at the county town of Buckingham.

On the motion that it be read a second time,

Sir *William Stanhope*:

Sir; if I did not think I could prove, that this Bill is the arrantest job that ever was brought to parliament, I would not give the House the trouble of hearing me. But why do I talk of proofs when there is a known course of law for appointing assizes all over England? If

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one particular town applies to parliament to desire the monopoly of the assizes in their county, is there any courtier who has so little of the country gentleman in him as to want to be told that such a monopoly, exclusive of the other towns in the county, is a job? Or will courtiers be fond of such a Bill, only because it is a job and a monopoly? But, Sir, this exclusion is actually going to be inflicted on the county of Buckingham; and here let me condole with that unhappy, rather that blinded county, who neglected to choose two gentlemen of such power and interest that I am persuaded they will have more votes in this House to-day, than they would have had at the general election in the whole county in question, if they had done it the honour to offer themselves for representatives. It is the power and interest of those gentlemen that I am afraid of, not of their arguments; and they will have occasion for both the former, to balance the weakness and ridiculousness of the latter. And to shew you, Sir, how sensible they are of the frivolousness of the latter, I could recapitulate such instances of intriguing for votes, as no man would believe who does not know those gentlemen. Conscious of the badness of their cause, they have employed every bad art to support it, and have retained so much of their former patriotism, as consisted in blackening their adversaries, and acquiring auxiliaries. They have propagated such tales, that men have overlooked the improbabilities, while they wondered at the foolishness of them; and they have solicited the attendance of their friends, and of their friends' friends, with as much importunity, as if their power itself was tottering, not the wanton exercise of it opposed: the only aid they have failed to call in, was reason, the natural but baffled enemy of their family: a family, Sir, possessed of every honour they formerly decried, fallen from every honour they formerly acquired: a family, Sir, who coloured over ambition with patriotism, disguised emptiness by noise, and disgraced every virtue by wearing them only for mercenary purposes: a family, Sir, who from being the most clamorous incendiaries against power and places, are possessed of more employments than the most comprehensive place-bill that ever was brought into parliament would include; and who, to every indignity offered to their royal master, have added that greatest of all, intrusion of themselves into his presence and councils; and who shew him what he has still farther to expect, by their scandalous ingratitude to his son; a family Sir, raised from obscurity by the petulance of the times, drawn up higher by the insolence of their bribing kinsman, and supported by the timidity of two ministers, who, to secure their own persons from abuse, have sacrificed their own party to this all-grasping family, the elder ones of which riot in the spoils of their treachery and places, and the younger——

[Here being called to order, he proceeded as follows:]

Sir, I am sorry to have offended the gentlemen, when I thought the greatest compliment I could pay them, as no man can imitate them without giving up his understanding or his character, was to follow their example. They introduced and cultivated the use of personal invectives, and they must be very tender, very sore indeed, Sir, when they would abolish the practice. But as they have corrected me for imitating them, I shall now do quite the contrary to what I ever saw them do, and oppose this Bill from reason and argument; and of all the Bills I ever saw, the opposition to this has the least occasion to combine personal odium with it to discredit it.

We were told, Sir, that applications for similar Bills have been often made, and the suit granted, but the Bill afterwards rejected: that sometimes Bills of the same nature have even passed this House, and not met with their fate till at a subsequent tribunal. Those were reasons I own for permitting the introduction of the Bill, as far as precedent should reasonably operate; but on summing up the accounts even of precedent, I apprehend they will bear evidence against passing the act. For thus it stands; parallel Bills have been brought in; have sometimes scrambled through here, but have extorted the united assent of the legislature. How often? twice, Sir, say the ingenious advocates for the Bill. Of that twice, once was as long ago as the reign of Henry 4; and the other was so far from being a case in point, that it is directly contradictory. So far was the parliament from pinning down the assizes to one town in Cornwall, that it left two towns open for them to appoint the assizes at either. Consequently there being but those two cases, where such a Bill has passed, the more precedents there are for such a Bill being brought in, the more there are for throwing it out.

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Another reason for appointing the assizes at Buckingham, is its being the county-town; a reason only fit to captivate the imagination of an antiquarian. If a county-town was always the most conveniently situated for the concerns of the whole county, or always the best accommodated with every thing necessary for holding the assizes, it might carry a plausibility of argument; but Buckingham having been proved, by the united voice of the gentlemen of the county, to be destitute of these advantages, and Aylesbury appearing to be characterised by them, the arguments summed up in the magic term county-town seem to have no more weight than two words without a definite meaning can give them; which can be none now, as I am sure we are not in this case, what we are sometimes denied to be, a court of judicature: for jargon is not our language. But the gentlemen seemed sensible that no stress would be laid upon words of no meaning, and therefore soon dropped this topic, to flourish on others of equal importance, and equally elucidated. They harangued out of the Petition, which having been coined in their own mint, could lend them no more weight than it had received from them. For, Sir, what were the fundamental arguments that produced the Petition, and that are to support the Bill? Why, the great concern the town of Buckingham is under for losing the assizes, and a design of preventing these two dangerous rivals from being played against one another. These were the parents of the Bill. A constant, settled, uninterrupted course of holding the assizes there for a prodigious length of time, for no less than 24 years; nay, and even before the date of that very distant period, some respectable obsolete instances of their having been held there too; this great prescription is to support the Bill; and if it were possible to want any additional strength, besides these notable arguments, and the whole force of the ministry, and the Drawcansir-ism of their well-worded champion, the House has had a formal assurance, that there will be a better gaol built at Buckingham than there is at present at Aylesbury, where with all the undenied advantages of situation and convenience, with a gaol and town-hall already built, it is said there is less attendance at the assizes than at Buckingham.

To these arguments, momentous as they are represented, no answer need be given, but what they carry along with them; foolish reasons confute themselves. I can grieve, Sir, that the good town of Buckingham should be concerned; I can tremble at the apprehension of two such potent states, as Aylesbury and Buckingham, entering into competition for power; I can contract such a respect for venerable custom, as to think 24 years such a duration of empire, that the sceptre cannot be ravished from Buckingham without a violation of all antiquity: and I can think, that a future gaol, more accommodated for reception, is an object that ought to strike the present parliament: for as to the greater or less attendance, I apprehend it depends on the different seasons of holding the assizes; because, though we have been assured that some gentlemen must go fifty miles to Buckingham, whereas the greatest distance from Aylesbury is not half the number, yet I believe many would go fifty miles in summer, sooner than 25 in winter. By retaining the assizes at Aylesbury, nobody will go above 25 miles at any time. But, Sir, I shall not dwell on these arguments, because I shall hardly convince any man, who can shut his eyes against the conviction of the map; nor in the map will Aylesbury appear the best situated, to any man who looks there only for Stowe. For Aylesbury, I am sure, I have no particular partiality; I never got a vote there that I did not pay for.

But, Sir, though I can accompany the petitioners in all their griefs and fears and promises, yet I cannot get over one objection, which strikes me as the very serious point on which this whole debate ought to turn. And that, Sir, is the great and unprovoked injury which this Bill will offer to the whole bench of judges; whose privileges will be violated, and even the prerogative of the crown infringed through their sides. But though we know by experience, how roughly these gentlemen handle the crown, whenever it suits their own views, yet I should hope the parliament would not lend their sanction to this insult on the judges. When the legislature has been so provident, as to establish their charges for life, that they may execute their great and weighty duties, unsubjected to any menaces of power, or appetites of interest, I should hope no man would consent to lop a power merited by age, experience, and abilities, entrusted by the whole constitution, and a check on all other power, as theirs alone exists by, and is inseparable from, the execution of the laws. Were there as many cousins as

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there are judges, and all chosen for Buckingham, I should hope the venerable dignity of those sages would save them from being sacrificed to the clamours and brigues of so important a race. If the Bill passes, the judges will no longer have the free option, which they have in other counties, of appointing the assizes; and sure there is no cause why these worthy persons should lose a privilege, which it is not pretended they have abused, only to favour the petitioners in acquiring a new privilege, much less supported by argument than any old privilege that ever I heard of: for, Sir, I repeat it again, there is not the shadow of an argument offered to support this request. No hardship is inflicted on Buckingham in taking away the assizes; the original hardship was to Aylesbury, from whence they were removed by a former judge, to cultivate a family-interest in the present petitioning town, which these gentlemen having undermined by their superior merit, it surely may be allowed to another judge to remove the assizes back to their former situation; and if four-and-twenty years are such a prodigious long term, why then Buckingham has enjoyed a privilege wrested from Aylesbury for a prodigious long season.

But the real hardship is on the judges, who are to suffer from the competition between these two towns. I cannot look on it, Sir, as personal to the great and learned man who made the last removal; it is only incidental to him when he goes that circuit, but all his brethren and successors are complicated with him, for no fault of theirs. It was said that no censure was laid on that great person for this removal; I am amazed that gentlemen should be so cautious; it is not the first time they have censured a chief justice for doing what he has a legal right to do; nor is this the first attack made on the learned profession by a certain family: but though they can influence court-martials to execute their piques and prejudices, I hope the parliament will have more sense and resolution than to be the tools of so hot-headed a faction; and when their drudgery *nemini obtrudi potest*, I hope, if they are at last forced to resort to us, we shall have spirit enough to preserve our own dignity, and to refuse to be the agents of their jobs, and the instruments of their malice, and, as all parties have already been, the dupes of their self-interested politics.

Mr. *William Pitt*:

Sir; the hon. gentleman set out with foul language and false assertions. He said, that the Bill was the arrantest job that ever was brought into parliament; and he said that he could prove it so; but immediately after dispenses with his own assertion, and says that it needs no proof: very arch, and very conclusive, truly! But, Sir, I take it to be no job, and I will prove it to be none. For, Sir, those to whom he attributes this job, did no more than their duty as members for the corporation they represent, which conceiving itself aggrieved, had recourse to parliament for relief, and to them for assistance. This, Sir, was a rational, a legal, and a proper method; and to call this a job, or to upbraid the gentlemen who promoted it, for what they were bound to do in the discharge of their trust, was affronting them, insulting the House, and offering a high indignity to the Commons of Great Britain, whose indubitable right it is to petition against whatever they take to be a grievance. He proceeded next to a false fact: he said, that this corporation applies for the monopoly of the assizes in their county. The very reverse of this is true; instead of applying for, they apply against a monopoly for which he is an advocate. They desire the assizes may be held sometimes at Buckingham; the point he espouses is, that they should be always held at Aylesbury—Which, dear Sir, looks most like a monopoly?

After so happy a beginning, he falls into a violent torrent of abuse on a whole family, founded on no reason in the world, but because that family is distinguished by the just rewards of their services to their king and country; and, in the heat of his resentment, he throws out things that are as unpardonably seditious as they are palpably absurd. He takes it for granted, that men force themselves into a presence and into councils, to which they have the honour to be called, and into which our constitution renders it impossible for any to intrude. In the same breath, he makes entering into a father's service an act of ingratitude to a son; and, without so much as pretending to assign either facts or reasons, he bestows the most low and infamous epithets upon characters, that all other men mention with esteem. In a word, he forgot himself to such a degree, that he painted out men of birth and fortune, and in high stations, as if they were the most



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abandoned and profligate creatures in the universe; without parts, without morals, without shame; and who, if his description had in it the least tittle of truth, instead of being members of parliament, or admitted to the privy council, were fit only to be members of a society once famous by the name of the Hell-fire Club.

It would be in vain to follow him step by step through that maze of scurrility in which he delights to wander, and therefore I will keep to the point in question, and to what you would have passed upon the world for arguments. He is pleased to say, that the precedents which have been brought in support of this Bill are few in number, and that they have not been always successful. Why, that may be, and yet it does not at all answer the purpose for which you bring it. A single Bill of this kind, applied for and brought in, is a precedent sufficient; that is, sufficient for the purpose, as to which precedents had been mentioned, as to the usage of parliament, in hearing and determining points of this nature; for as to what they will upon the hearing determine, is another point, and what must depend upon the merits of this particular cause. But if ever the House of Commons received and examined, and afterwards decided upon a case of this nature, whether in favour of those that brought in the Bill or not, it was a very good argument for bringing this point to be examined the same way; nor was there the least probability that his little sophism, of the more precedents of bringing in, so many more precedents there were of throwing out such Bill, should prevail. The words jingle prettily enough, and no doubt but the witlings of a party may think this manner of speaking very fine; but men of sense and judgment will always distinguish between a trite expression and a sound reason. A Bill of the same kind, brought in heretofore, is a good precedent for bringing in one now; and throwing out that Bill afterwards, is no precedent at all, unless the same reasons appear in this case that there did in that. Now shew you but these reasons, and no doubt the Bill will be thrown out. But, in the mean time, what you have advanced, is no argument against bringing it in.

In the same arch manner, he was for getting rid of the argument drawn from its being a county-town. That, he says, was to catch the antiquaries; and pray, Sir, what was the meaning of your known course of law for appointing the assizes all over England? Was not that thrown out to catch the lawyers? But, if he disputes its being the county-town, give me leave to tell him, that there is an act of parliament in the reign of Henry 7, by which it is enacted, That the standard of weights and measures shall be kept here; and till that time, you will give me leave to say, that it was without dispute the county-town, and that most of the county business was done there. Upon this fair state of the case, it will appear that Buckingham's being the county-town is no magic term, no appellation grounded merely upon its giving name to the county, but arising from an indisputable matter of fact, which therefore deserves to be well weighed and considered, notwithstanding your quaint way of turning it into ridicule, more especially in a place where, as you rightly say, jargon is not their language.

In the next place he is extremely witty on the prodigious length of time, no less, says he, than 24 years, that Buckingham has been in possession of the assizes; in which give me leave to say, that there is somewhat of prevarication, though I must be so just to own, that he very possibly might not intend it. For this prodigious length of time, with which he is so merry, does not really refer to the possession of the assizes, but to their being restored to Buckingham; and surely, if it had been deprived of them even for a prodigious length of time (to use that term in its proper sense), this, according to his own manner of arguing, ought to be no reason against restoring them, much less ought it to be urged as a just cause for depriving them a second time of what they had been, without any manifest inconvenience, restored to in part; that is, for the summer assizes only, for that is all that is contended for, and this for the space of 24 years. Be so kind for once, Sir, as to let the thing appear in its true light: Buckingham was the old county-town where the assizes were generally held; but, by some means or other, they were taken away; and by this means this good old borough sunk very much in its credit. But after they had been long taken away altogether, and bestowed as a favour on another place, Buckingham had the good fortune to recover the summer assizes, and found the benefit of it. But, by another unlucky accident, they are deprived of their turn of having the assizes held there, without any cause assigned for inflicting

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this punishment; and for this they ask relief, which he and the friends of Aylesbury say is ridiculous. Other folks think it reasonable; shall not the parliament be allowed to judge whether it is reasonable or ridiculous? Surely, Sir, all the wit, and spleen, and prejudice, and solicitation in the world, ought not to prevail in such a case as this, to deny people a hearing.

The chief argument upon which he seems to rely, and indeed it is the argument upon which his friends choose to rest this point, is the privileges of the judges. If the Bill passes, says he, the judges will no longer have the free option which they have in other counties of appointing the assizes, and there is no cause why they should lose a privilege, which it is not pretended they have abused. Immediately after, he is pleased to say, that no hardship is inflicted on Buckingham, in taking away the assizes: the original hardship was to Aylesbury, from whence they were removed by a former judge, to cultivate a family-interest in the present petitioning town. Now, Sir, all this to me is mystery, absurdity, and inconsistency; for I should be glad to know how he can reconcile the not abusing this privilege, to his assertion that the assizes were removed (he should have said the summer assizes restored) to Buckingham by a judge, to cultivate a family-interest. If there be any truth in his insinuation, what becomes of his argument? Is cultivating a family-interest a sufficient reason for transferring the assizes from one town to another? Surely not. If there be a syllable of truth in this insinuation, a stronger argument cannot be offered for preventing any thing of the like sort for the future. But, Sir, I beg leave to say, he has advanced another absurdity, as to the original injury being offered to Aylesbury. Pray when, and how, got the assizes thither? Was Aylesbury the old county-town? Were they always held there, both summer and winter? If not, surely the original injury was offered to the place from whence the assizes were transferred to Aylesbury. By his archness upon antiquaries, I doubt he will not be able to answer this question. He will not thank me, perhaps, but I will answer it for him. It happened once upon a time, a prodigious long time ago, in the reign, if I am rightly informed, of Henry the 8th, that the lord chief justice Baldwyn, who was a native of the town of Aylesbury, and who had purchased the lordship of that place, had interest enough to carry the assizes, sessions, and all county business thither. My author says, that this was out of partiality; but let that pass: whatever his motive was, certain it is that he did it; and if there be any strength in the hon. gentleman's logic, this was the original injury, and therefore the injury that ought to be repaired. He will forgive me, Sir, for demolishing his argument, when he considers how much I have strengthened his insinuation.

One stroke more, and the piece is finished. He seems to be mightily alarmed at the inconveniences that would follow upon granting the prayer of the Petition. Had there been any such inconveniences ever experienced, when the assizes were at Buckingham, no doubt they would have been removed some other way than they were. In a case of this nature, it is the benefit of the county in general, it is a fair and equal distribution of public favours that ought to be considered, and not family-interests, or the conveniences of particular persons, however dignified or distinguished. This, Sir, if I understand the cooler parts of his speech clearly, is what he means, and I protest I mean the very same thing. He has shewn, in one strong instance, that for the sake of cultivating a family-interest, this great point was slighted: I have mentioned another instance, where, on the score of a purchase, it was also slighted. How do we know, Sir, that, in the ancient or modern times, other instances of the same kind may not have occurred? And therefore that they may never occur more, why should not this point be fairly and fully discussed before those who are not likely to be biassed by any such interests? Here, Sir, lie the true merits of the cause, and by the merits let it be determined. He is pleased, indeed, to be ludicrous, very ludicrous, in representing the contest betwixt the two great states of Buckingham and Aylesbury; but surely the concerns of two corporations deserve to be treated a little more seriously, especially when they come to be examined before so august an assembly. If in itself this be such a trifling and ridiculous affair, why does he make such a point of it? and if it is otherwise, why would he represent it in that light? Alas! the reason is but too plain; if it is considered in any other, all he has been saying must go for nothing. All his eloquence is lost, all his jokes are spoiled, all his wit is thrown away; for all these, Sir, are employed to procure a decision without a



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hearing. Yet he is so kind, and indeed so just, as to declare that he is impartial. He is acquainted with the county some other way than by the map, though it may be the case of some of his warmest friends to be no otherways acquainted with it; and it seems he is acquainted likewise with Aylesbury; very well acquainted with it, by the character he bestows upon it —'I never got a vote there that I did not pay for.' He is a man of honour, Sir, and nobody will doubt the truth of what he says. Perhaps this method of procuring votes may not be altogether out of fashion; but it is to be hoped, for the future, that private interests will be supported by private purses; for I dare say, Sir, even he will not think it reasonable to exchange that method for public privileges.

Mr. *Thomas Potter:*

Sir; modesty has always been reckoned a sign of merit, and the people of a country have always been deemed virtuous, when the youth among them shewed a becoming modesty, and a due respect to their superiors either in age or character: what then shall we say of the people of this country? What shall we say of the young gentlemen who are the undertakers of the Bill now before us? They have undertaken, by their superior abilities to convince the king and parliament of Great Britain, of the justice and utility of a Bill which is manifestly a private job of their own, and a job which is not only in itself unjust, but an encroachment upon the prerogative of the crown, and an affront to the judges of the realm. To undertake to bring our present ministers into such an absurd opinion, is not perhaps a sign of great vanity in the undertakers; but to imagine it possible to bring the two Houses of Parliament into it, cannot, I think, proceed from the most extravagant vanity that ever any man was possessed with; therefore they must depend for success upon something else; and I can suggest nothing to myself upon which they can have any dependence, unless it be that against which they appeared to be the most zealous and flaming advocates, till they had, by that means, forced themselves into the lucrative employments they now enjoy.

Sir, I have called the Bill now before us a private job, and I shall now shew it to be one of the worst sort of jobs; for this purpose I must observe, that there are two sorts of jobs, one laudable, the other infamous. That I call a laudable job, when it happens to be a man's private interest to propose and promote any thing that tends to the advantage of the public; for when his chief motives for proposing and promoting any such thing are founded upon his private interest, it may, with respect to him, be called a job, but it is a laudable job; and to this sort of job-work we owe many of the best laws and regulations we have amongst us. The other sort of jobs which I call infamous, are when a man is excited by his private interest to propose and promote a law or regulation, which manifestly tends to the disadvantage or confusion of the public; and that the Bill under our consideration is a job of this kind, I shall now endeavour to demonstrate.

The county town is a term or expression, Sir, which our lawyers will tell you, has no determinate signification, either by common law or by statute. By custom, that is generally called the county town, where the county courts, the quarter sessions, and the elections for the county usually are held; but no town in any county has a right by common law, statute, or prescription, to have the county courts, quarter sessions, or elections held there and there only, a very few excepted. As to the court called the sheriff's turn, it is, as we all know, an ambulatory court, which is held at the usual place in every hundred within the county; and as to the county or shire court, the sheriff may hold it at any place, where he is not directed otherwise by express statute, which is not the case of the county of Bucks, nor of any other in England that I can now recollect, except the county of Sussex, where the shire court is directed by statute to be held alternately at Lewes and Chichester; and the county of Northumberland, where it is directed by statute to be always held at Alnwick: as to the former of which I must remark, that the law for that purpose was passed the 19th of Henry 7, when Empson and Dudley bore the chief sway at court, and by that House of Commons who were so obsequious as to chuse Dudley for their Speaker; so we may suppose, that either the king or his favourites had money for getting this law passed; and as to the latter, it was passed in the beginning of the reign of Edward 6, when Dudley, then earl of Warwick, the son of the Dudley I have just mentioned, had great sway at court, who probably got

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this act passed to justify what had been done by his father, or perhaps with some other private view of his own, as he got himself afterwards created duke of Northumberland, and even contrived and in some part executed a plot for settling the crown of England upon a branch of his family, for which he deservedly suffered in the next following reign.

From hence it is plain, Sir, that except in the counties of Sussex and Northumberland, no town in England can from the county courts claim being the county town; and as to the laws for settling the county courts in these two counties, they were past by such a parliament, and at such a time, as can give no great weight to the precedent. Then as to the quarter sessions, except in the county of Anglesea, they are to be held at any town within the county, or at several different towns, according as the justices shall at their discretion appoint; consequently, no town can from thence claim being the county town: and as to the election of members of parliament for each respective county, the sheriff, who could appoint the county or shire court to be held where he pleased, could certainly have appointed the election at any town within the county where he thought fit, without any restraint or limitation, till the passing of the act in the 7th and 8th of king William, for regulating elections of members to serve in parliament. By that act indeed, it is provided, That the county courts for the election of knights of the shire shall be holden where the same had most usually been for 40 years then last past; and therefore from that time the sheriffs have been obliged to hold the county courts for the purpose of elections at a certain town in each of those counties, where the elections had for 40 years preceding that act been held at any one particular town in the county. But if any town in any county is from thence to claim the honour or privilege of being the county town, let us see, Sir, how this matter will stand with regard to the county of Bucks. In that county it neither has, nor can be denied, that the election of knights of the shire had been almost always held at Aylesbury for above 40 years before the said act of the 7th and 8th of king William; and as the county courts and the quarter sessions have likewise been usually held at the same place, ever since the reign of Henry 8, surely if any town in that county has a title to call itself the county town, it is the town of Aylesbury.

Now, Sir, with regard to the place for holding the assizes in each county, let us see how the case stands by the laws and customs of this kingdom. By an old, and I may say, an antiquated law passed in the 6th year of Richard 2, that is, about 365 years ago, the justices of assize and gaol-delivery are directed to hold their sessions in the chief towns of every county, where the shire courts there use to be holden; but this law was soon altered by an act of the 11th of the same king, which recites, that because it was found inconvenient to the subject, that justices of assize should be bound to hold their sessions where the shire courts use to be held, therefore it is enacted, that the chancellor, by the advice of the justices, shall have power to order it otherwise, as need shall be, notwithstanding the said statute.

These, Sir, are the only general laws we have relating to the places where the assizes are to be holden in each county; and from these it is evident, that the justices never were confined to any one town in any county; for by the first of these two acts they were confined only to those towns where the shire courts had usually been holden; but as the shire courts in every county were, as I have shewn, held sometimes in one town, and sometimes in another, at the discretion of the sheriff, therefore, even by this law, they were confined only to one or other of those towns in each county where the shire courts had usually been held; and even this confinement was taken off by the last of these two acts, and the chancellor, with the advice of the justices, was empowered, when he thought it necessary, to order the assizes to be held at any town he pleased to appoint within the county, even though no shire court had ever been held at that town.

Thus, Sir, by the general law as it now stands, for there are two exceptions by particular laws, no town in any county has a right to have the assizes held there; and if any one town in any county has a better right than another, surely it is that town where the county courts, the quarter sessions, and the elections for the knights of the shire are usually held. If so, then with regard to the county of Bucks, the town of Aylesbury has a better right to the assizes than any other in that county.

The only other pretence I can think of for entitling one town in any county to have the assizes held there, rather than at any other town, is the situation and con-

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veniencies for accommodating a great number of strangers; and in every respect of this kind Aylesbury has a better title than Buckingham; because it is more centrical, because it is a larger town, because it has a more plentiful market, and because the county-gaol is now fixed there. It may indeed be said, that the summer assizes ought to be held at some place remote from the county-gaol, that the prisoners may be purified by the fresh air before they are brought into court, in order to prevent those infectious distempers which have been fatal to some of our judges as well as others attending the court, when prisoners are in hot weather hurried directly from gaol into a crowded assembly. But if there be any weight in this argument, it operates as strongly in favour of Wycomb, Marlow, Colnbrook, and the other towns at this end of the county, as it can do in favour of Buckingham, which is quite at the further end of the county: indeed, the argument is stronger in favour of the hithermost towns, because of their being more convenient for such of the inhabitants of London and Westminster as are obliged to attend the assizes for the county of Bucks; but at least we ought in common justice to the hithermost part of that county, to put them upon an equal footing with the farthermost part, and consequently if we remove the summer assizes from the centre of the county, we ought to order them to be held one year at Buckingham, and the other at Marlow, Colnbrook, or some other town at this hithermost end of that county.

I have now shewn, Sir, that Buckingham has no manner of title or pretence to an exclusive right for having either the summer or winter assizes held there, and that if any town in that county has such a right, it is the town of Aylesbury; consequently, our fixing by act of parliament the summer assizes at the town of Buckingham, will be an injustice done to the town of Aylesbury in particular, an injustice done to every other town in that county, and in short an injustice done to the whole county of Bucks, except that small part of it which lies about and to the northward of the town of Buckingham: and for what are we to do this notorious piece of injustice? Not for any public utility or advantage: for no such has been, or can be so much as pretended: not for avoiding any impending mischief: not for rectifying any error or abuse that has been committed: in short, for nothing but for satisfying an extravagant ambition in two young gentlemen, which our ministers have been weak enough to indulge, and which any minister of sense and resolution would have taken care to stifle in the birth.

To pretend, Sir, that the Bill now before us is intended for restoring the tranquillity of the county of Bucks, is the most groundless pretence that was ever set up. For God's sake, Sir, when was the tranquillity of that county disturbed? It is in itself a peaceable county, and was in perfect quiet till our two young undertakers set this project on foot. The holding of the assizes last summer at Aylesbury occasioned no disturbance, nor any complaint: on the contrary, it was approved of by the whole county, except our two young undertakers, and some of the inn-keepers their friends at Buckingham; but when they set the Petition on foot upon which this Bill is founded, and got that Petition signed by some out of complaisance, by others to get free from their importunity, and by others, perhaps, out of fear of their interest with the ministers, which they magnified as much as they could, and, as now appears, not without some grounds, I shall grant, it raised a combustion in the county; for gentlemen stood amazed, and could not without indignation see an attempt made to sacrifice the interest of their whole county to the ambitious views of a few ministerialized patriots.

But this, Sir, is far from being the only bad consequence of the Bill now before us; for should it be passed into a law, it may probably raise a combustion in every county of the kingdom. An exclusive privilege of having the assizes held at any one town in a county, is a privilege that every town will be fond of having, and the success of this Bill will encourage many towns to petition for a Bill of the same nature in their favour, especially if they have such gentlemen for their representatives as are favourites of the minister, or rather such as have found out the secret of making a timid minister afraid of refusing them any thing. Such petitions will always of course be opposed by some of the other towns of the county, and thus the whole county will be set in an uproar, which may produce tumults and riots, and perhaps dangerous insurrections; so that this Bill plainly tends to the disadvantage and confusion of the public, and consequently is one of that sort of private jobs which I have called infamous.

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Therefore, Sir, if you resolve to treat this Bill as it deserves; if you resolve to restore quiet to the county of Bucks, and to reconcile the minds of the people to one another; if you resolve to prevent the like disturbance in any other county for the future; you must refuse this Bill a second reading. In so doing, whatever some wrong-headed ministers may think, you will do a piece of signal service to every future as well as our present minister, by furnishing them with an excuse for refusing to adopt any such infamous jobs, as ambition or private interest may prompt their friends or assistants to undertake.

Mr. *George Grenville:*

Sir; the affair now before us has been represented in such an invidious light by its opposers, as renders it absolutely necessary to lay the whole case before you, which I shall do in as plain and brief a manner as possible, and then leave it to the House to determine, whether it deserves the many hard epithets it has been loaded with in this debate.

Whether the town of Buckingham has a title to be called the county town, or whether any town in that or any other county has a title to be called so, is a question that I shall not give myself the trouble to examine, nor do I think it material to determine that question one way or other; but this I will say, Sir, that the town of Buckingham is the most ancient, and was the most considerable town in that county, till trade and manufactures began to be established amongst us. Till that happy æra, Sir, it is well known, that all our towns, especially our inland towns, owed their original to some strong castle in the neighbourhood, and that those castles were made use of as prisons for all sorts of criminals. When any such castle was built, as some great lord generally lived in it, and as a garrison, or number of armed men, was usually kept in it, this of course drew artificers, shopkeepers and victuallers to settle and build themselves houses at some place near the castle, in order to furnish the lord and his family, or the garrison, with what necessaries they wanted; and the farmers in the neighbourhood, as well as many of the small freeholders, likewise built themselves houses there, in order to be protected against that sort of robbers formerly called Robertsmen, by whom all parts of the country, as well as the northern, were in former ages very much infested; and as they often appeared in great bodies, it was necessary to lodge all criminals in prisons within some strong castle, for preventing their being rescued by these Robertsmen.

Thus, Sir, most of our towns first began to be formed, and to this the town of Buckingham owes its original. The old and the strong castle built there gave rise to the town, very probably before there was any thing like a town in any other part of the county, which was probably the reason why in ancient times, and for many ages, the county courts, the quarter sessions, and the assizes were held, and the whole business of the county was transacted, at Buckingham; and the county goal was at the castle there, as appears by many books, and records. But towards the end of the reign of Henry 8, the lord chief justice Baldwyn having purchased the manor of Aylesbury, resolved for the advantage, and to increase the rents of his manor, to encourage and promote the trade of that town as much as he could. With this view, and this solely, he endeavoured, and had interest enough to accomplish bringing the county courts, the quarter sessions, and the assizes to be generally held, and almost the whole business of the county to be transacted at Aylesbury, to the great prejudice of the town of Buckingham, and all that part of the county; which they were very sensible of, and loudly complained of the injury that had thus, for the private advantage of a chief justice, been done them; but they could find no proper opportunity for seeking redress till the year 1614, when at their request a Bill was actually brought into parliament for fixing the summer assizes for the county at the town of Buckingham, which Bill would probably have been passed into a law, if the parliament had not been suddenly dissolved four days after the Bill was brought in.

This disappointment, Sir, so much discouraged the inhabitants of the town of Buckingham, and that part of the county, that they never made any new application to parliament; but luckily for them, one of their townsmen came to be a judge soon after the year 1720, and he had interest enough to get the summer assizes always held at the town of Buckingham as long as he lived, which practice was continued after his death without interruption, till last year, when a chief judge, whom I do not chuse to mention by name, had formed a scheme for getting one of his sons chosen a representative in parlia-

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ment for the town of Aylesbury; and to render his scheme successful, he resolved, I may suppose, promised to get the summer assizes brought back to that town, which he accordingly effected, and the assizes were by him held there last summer, about the time the election of their representatives came on, when they, in return for the favour conferred on them, chose one of his sons as one of their representatives in parliament.

I could here expatiate, Sir, upon the nature of private jobs, and the bad consequence of magistrates wresting their power and authority towards the accomplishment of such; and I could give hard names with more justice, I think, than the gentlemen of the other side can pretend to; but I chuse to leave them in the sole possession of such sort of arguments; and shall only observe, that the inhabitants of the town of Buckingham thought themselves injured by being deprived of the summer assizes, which had been held at their town without interruption for 25 or 26 years preceding. If the removing of the summer assizes had been founded upon any public motives, or if it had been for the advantage or convenience of the county in general, the town of Buckingham would have quietly submitted to their misfortune; but whoever looks upon the map of the county must see, that the county in general is very little interested in the question; for the distance between Aylesbury and Buckingham is but 17 measured miles, and to ride 17 miles more or less in the summer time, can be a matter of no moment to any person whatever. Besides, as the distance from the southern extremity of the county to Aylesbury is 27 measured miles, from Aylesbury to Buckingham, as I have said, but 17, and from Buckingham to the northmost extremity 21, it is more reasonable that those of the southern extremity should be obliged to ride 44 miles in the summer time, and but 27 in the winter, than that those in the northern extremity should be obliged to ride 38 miles to the assizes both summer and winter.

What I have said, Sir, relates only to the length of this county, which is about 60 miles from south to north; for as to the breadth it is of no consideration, because the county is in most places not above 10 or 12 miles broad; and Aylesbury lies almost as near to the eastern boundary, as Buckingham does to the western. Then as to the county gaol's being at Aylesbury, the removing of the prisoners from thence to Buckingham, in the summer time, can be attended with no danger, because they are not obliged to travel in the dark, to lie a night upon the road; and in the day time there can be no danger of an escape or rescue, especially as the sheriff may have a party of the troops to attend him, if he should have reason to apprehend an attempt towards a rescue. Nor can this removal be attended with any expence to the county, because the expence of such removals is always defrayed by the public, and the sheriff has an allowance for it, in his accounts.

The town of Buckingham had besides these, Sir, another and a very strong reason for supposing, that the advantage or convenience of the county in general, had no share in the motives for depriving them of the summer assizes; for though the summer assizes had been held at their town for 25 or 26 years preceding, without the least interruption, the county never thought themselves aggrieved, nor had ever made the least complaint against it; and as to the convenience or accommodation of the judges themselves and their attendants, the people of Buckingham knew, that it could be no motive for depriving them of the advantage of the summer assizes; because their town-hall, where the courts of justice are holden, is a large commodious building, and more convenient for both the civil and criminal courts, than is to be met with any where upon that circuit, the counties of Norfolk and Suffolk only excepted; and because, though there may be more private houses in Aylesbury, the inns at Buckingham are more in number, larger and better provided than those at Aylesbury, as all that have travelled that road have found by experience, and as the judges and counsel upon the circuit have often declared.

From these circumstances, Sir, the people of Buckingham concluded, that they had been deprived of the summer assizes merely to serve the private purposes of an ambitious judge, and this they looked on, not, I think, without reason, as a grievance; but what was still worse, they foresaw, that this grievance would be continued probably for many years, and that by this means they might be for ever deprived of having, either the summer or winter assizes held at their town. This, I say, they foresaw, and could not but foresee it, from the established practice in ap-

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pointing the places for holding the assizes all over the kingdom. According to this practice the judges meet before every issuable term, and chuse the circuits which they are to go upon: when they have settled this point amongst themselves, the chancellor, out of complaisance, always leaves it to the judges to appoint the places where the assizes are to be held, in the several counties, within their respective circuits; and when this is done, the chancellor carries the paper to the king for his approbation, after which it is published in the London Gazette. His majesty, it is true, or the chancellor, may alter this paper both as to the judges and the places where the assizes are to be held; but of this, I believe, there is hardly an instance upon record; so that in general it may be concluded, that the judges have the chusing of their circuits, and the appointing of the places for holding the assizes, in the several counties within their respective circuits.

Now as the chief judge, who removed the assizes last summer from Buckingham, can never go the winter circuits, because of his being obliged to attend the other House, is it not highly probable, that he will always, in the summer time, chuse the Buckingham circuit, and that the other judges will be so complaisant as to allow him his choice? If they are, is it not likewise probable, that as long as he goes that circuit, which may be many years to come, he will in return for the favour done to his son, and to procure a continuance of the same favour, appoint the town of Aylesbury as the place for holding the summer assizes for the county of Buckingham? And may not the town of Buckingham, by this means, be for ever deprived of the summer assizes?

Sir, had not the town of Buckingham good reason to complain of this grievance? Had not they good reason to seek for redress? But where should they apply for redress? Had they applied to the lord chancellor and the judges, they would have been told, that the constant practice was against them. They could apply no where but to parliament; and could the representatives they have chosen refuse to countenance them in this application? The promoting of this Bill is, therefore, no private job, nor any rash or imprudent undertaking in the gentlemen who represent that borough; it is no more than what they are in honour, in duty, in gratitude bound to do. If it had been a new and unprecedented thing to fix the holding of the assizes at any one or more particular towns in a county, this step might have been thought extraordinary; but we have many instances of patents for fixing the assizes at particular places: upon our Journals we have many instances of Bills brought in for this purpose; and in our statute book we have one law for fixing the assizes for the county of Cumberland at Carlisle; we had another for fixing the assizes for Staffordshire at the county town of Stafford: we have a third for fixing the county courts, and consequently, I think, the assizes for Sussex alternately one year at Lewes, and the other at Chichester, which is in the remotest corner of that county: and we have a fourth for fixing the county courts, and consequently, I should think, the assizes for Northumberland at Alnwick.

There is therefore, Sir, nothing extraordinary or unprecedented in the Bill now before us: and a Bill founded upon petitions signed by so many eminent persons and great land-holders, surely deserves to be so far considered in this House, as to be allowed a second reading. Whether it be a Bill that ought to be passed into a law, may then, and cannot till then, be properly considered: but whether it be passed or no, it will, I believe, have this good effect: it will shew our judges, future as well as present, that they are not to make use of the power they are in this respect vested with, for promoting their own selfish and private ends; and it will probably restore the summer assizes to the town of Buckingham, sooner than a certain gentleman intended they should. Therefore let the fate of the Bill be what it will, the effect of attempting it will shew, that it was neither a rash nor inconsiderate undertaking,

Dr. *George Lee:*

Sir; as the honourable gentleman who spoke last, has been pleased to give you his state of the case with respect to the Bill now before us, I shall beg leave to give you a state of the case as it appears to me, and when both are fully laid before you, the House will be able to determine, which is the most true and genuine; for that you must determine, before you can judge whether this Bill deserves your indulgence or resentment. But before I begin, Sir, I must observe that it is certainly the interest, and must be for the conveniency of every county, to have the



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assizes held at the most centrical town in the county, and what is for the good of every individual, must be allowed, to be for the public good of the whole. Custom has, in some cases, determined it otherwise, and this custom was in ancient times, when the peace of the country was often interrupted by large gangs of robbers, not only reasonable but necessary; but now that the peace of the country is settled, this custom ought to be altered in all counties, where it is not supported by some particular reason. As in every county the assizes ought to be held at the most centrical town, so the county gaol ought to be at that town, because it renders it equally safe and easy for the constables and other officers of justice, in the remote places of the county, to bring their prisoners to the county gaol. Both these conveniencies the county of Bucks were so sensible of, that but very lately they were at the expence of obtaining an act of parliament for taxing themselves, and did by virtue thereof raise a very large sum of money for building a county gaol, a shire-hall, and other buildings necessary for holding the assizes at Aylesbury, which have been since built and rendered every way commodious; and to shew that the Bill now before us is not the first act of selfishness the town of Buckingham has been guilty of, I must observe, that this act of parliament was opposed by the town of Buckingham, till the county agreed, that the inhabitants of that town should be free from the tax to be raised, which was a favour that the town of Wicomb, if they had been as selfish, had as much a right to insist on; but that town submitted to what was deemed for the general good of their county, and agreed to be taxed towards an expence that might probably deprive them of the assizes for ever. I say for ever, because it is certainly for the public good, as well as for the convenience of every county, to have the assizes held at that town where the county-gaol is established, unless where some particular reason demands the contrary, as in Surrey, where the neighbourhood of London makes it necessary to have their chief gaol in Southwark.

After having thus laid it down as a maxim, Sir, that it would be for the general good of every county, and consequently for that of the whole nation, to have the county-gaol established, and the assizes always held at the most centrical town of the county; I must observe, that though this maxim may generally hold, yet it would be wrong to render it unalterable by law, because in some counties particular reasons demand the contrary, and at particular times in other counties there may be reasons for not holding the assizes at the most centrical town: besides, if the assizes were unalterably appointed to be held at any particular town, it might encourage the innholders, and other dealers in that town, to impose and exact upon the judges, and all others who are obliged to attend the assizes there. For this reason our laws have wisely left it in the power of the chancellor, with the advice of the justices, to appoint the place in each county where the next assizes are to be held; and it may be true, that the chancellor, out of complaisance, leaves it to the judges who are to go upon each respective circuit, to appoint the places where the assizes are to be held in each county within their circuit. But a just and impartial judge will always appoint the most centrical town of each county for holding the assizes, especially if the county gaol be there, unless when there is some very particular reason, of a public nature, for appointing them to be held at some other town of that county.

In ancient times, Sir, there was less reason than now for holding the assizes at the most centrical town of each county, because, as the peace of the country was seldom well settled, the sheriff, with the *posse comitatus*, used to receive the judges at their entrance into the county, and attend them as a guard while they remained in the county, and till they were received by the sheriff and *posse comitatus*, of the next county; therefore, as every man in the county was obliged to attend the judges through the whole county, it was the more indifferent to them at what place in that county the assizes were held; but of latter times, none but the sheriff and his officers are obliged to attend the judges through the whole county, as all others, such as jurymen, witnesses, parties and the like, are obliged to attend only at the place where, and during the time when the assizes are held; equity requires that this attendance should not be rendered more burdensome upon one part of the county than upon another, which can be no way avoided but by holding the assizes at the most centrical town, when there is no particular reason for holding them at any other place.

If in former ages, Sir, the assizes were

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held, and the whole business of the county transacted, and the county gaol established, at the town of Buckingham, history will furnish us with a particular reason which now no longer subsists. This reason was, not because Buckingham was the town which gave name to the county, or because it was the principal and most considerable town of the county: for the legal name of the county is Bucks, and it received this name from the Saxon word Bouky, which signifies a beech tree, because of the vast quantity of that sort of timber which grew in that county; and for the same reason the town of Buckingham was so called, that is to say, the village of beech-trees, because the woods of beech-trees were there larger than in any other part of the county. Then as to Buckingham's being the most considerable town, it is certain that both Aylesbury and Wicomb were in ancient times more considerable for trade and number of inhabitants; for, in Doomsday-book, the town of Buckingham is valued but as one hide of land, which is no more than the 8th part of a knight's fee, and it had then but 26 burgesses in it. But what made it considerable was, because of its having been fortified, and having a strong castle built there, by our Saxon kings, as a strong pass and good defence against the irruptions of the Danes. For this reason, when the country was almost continually infested by large gangs of robbers, or Robertsmen, both the assizes and county courts were held at Buckingham, because they were in greater safety there than in any other part of the county, and the prisoners were kept in the castle, as being the most secure place within that county.

But, Sir, before the end of the reign of Henry 8, both these reasons ceased to exist. The castle was gone to ruin, and no longer fit for being made a prison; the fortifications of the town were gone to decay, and the peace of the county established, so that the judges were at full liberty to appoint the assizes to be held at that town which was most convenient for the county in general; which was the reason, and a good reason too, for removing both the county courts and the assizes to the town of Aylesbury. It may perhaps be true, that the lord chief justice Baldwyn had, towards the end of that reign, purchased the manor of Aylesbury, and that for the advantage of the manor he had purchased, he made use of his interest to get the county courts and assizes removed from Buckingham to Aylesbury: if this was his chief motive, the removal with respect to him may be called a job, but it was what an honourable gentleman has, in this debate, called a laudable job, because it coincided with the public interest; and however prevalent this private motive might be with him, it could have no weight with the chancellor and other judges, nor with the high sheriff and justices of the peace. With them no motive could have great weight, but the convenience of the county in general; and this motive ought ever since to have prevailed, and ought still to prevail, for holding both the county courts and the assizes at Aylesbury, as often as there is no particular reason of a public nature, that requires their being held at some other town in that county.

After having thus, Sir, examined the conduct of lord chief justice Baldwyn, with respect to removing the assizes from Buckingham to Aylesbury, I shall next examine the conduct of the late judge Denton, with respect to holding the summer assizes always at Buckingham. That gentleman happened to be a native of the town of Buckingham, or at least of that part of the county, and in order to do a favour to that town, he prevailed with the chancellor and judges to appoint the summer assizes to be constantly held at Buckingham. I am sorry to say any thing that may in the least reflect upon that worthy gentleman, who was certainly a good judge, as well as a very honest man; but as there could be no reason of a public nature for thus holding the summer assizes constantly at such a remote corner of the county, it can be called nothing but a private job: I shall not call it an infamous job, because it proceeded from a laudable principle, an affection for the place of his nativity; but it was a partiality which a judge ought not to have been guilty of; and if it was not a criminal, it was at least a culpable complaisance in the chancellors and other judges to indulge him so long in this piece of partiality; because it was doing injustice to the greatest part of that county.

I know, Sir, it is said, that this custom was continued for some years after his death; but this was for the same reason that many bad customs are continued, merely because of its being the custom. In all such cases, that man who has the courage to break through a bad custom, deserves the thanks of his country; which

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leads me to examine the conduct of that learned and upright judge who brought the summer assizes back to Aylesbury. That gentleman observed, as nothing can escape his penetration, that the custom of holding constantly the summer assizes for the county of Bucks at Buckingham, had been introduced by partiality, and continued by pusillanimity, to the prejudice of the greatest part of the county, and contrary to that rule which ought generally to be observed through the whole kingdom: therefore he resolved to take the first opportunity for breaking through this custom, and for this he deserves the thanks instead of the reproaches of his country. Unluckily for him, this opportunity did not offer till last summer, when the last parliament was unexpectedly dissolved, and a new one appointed to be chosen; and as the town of Aylesbury had resolved to chuse one of his sons as one of their representatives, and as the election was to come on about the time of holding the assizes, this furnished his enemies, and the people of Buckingham, with a pretence, that he had got Aylesbury appointed as the place for holding the assizes, in order to favour his son's election.

Sir, when two motives concur for a gentleman's conduct, one of a public and another of a private nature, it is an uncharitable way of judging to suppose, that his conduct is founded merely upon that motive which is of a private nature, especially when there are many reasons for supposing, that this could not be his motive, as there are in the case now before us; for as the place for holding the assizes was not at his absolute disposal, he could not promise the people of Aylesbury to have the summer assizes held there, on condition of their resolving to chuse his son for one of their representatives. Nay, we know, that if any such promise and resolution had been previously known, it would probably have prevented Aylesbury's ever having the summer assizes, till some change had happened in our public affairs. But let us suppose, Sir, that this of getting his son chosen one of the representatives for the town of Aylesbury, was his chief motive for getting the last summer assizes appointed to be held at that town, the worst we can say of it is, that it was a private job, but at the same time we must confess, that it was a laudable job, because the general interest of the county coincided with it; and can this be a reason for our doing such an injury to that county, as to fix the summer assizes for ever at Buckingham?

But say these gentlemen, it can be no injury to that county in general, because, though the summer assizes for that county have been held at the town of Buckingham for these 24 or 25 years past, without interruption, the county never complained of it, which they would certainly have done, had they thought it an injury. It is true, Sir, the county never made any solemn or public complaint; but it is impossible to suppose, that the gentlemen in the middle, and all the southern part of the county, did not think it was an injury, to oblige them to ride every summer 34 miles more than they would have had occasion for, had the assizes been held at Aylesbury; and every high sheriff of that county must have been sensible of the injury done him, in obliging him to run the risk of carrying his prisoners every summer from Aylesbury to Buckingham, and back to Aylesbury again. The gentlemen of the county of Bucks have sufficiently shewn, that they think Aylesbury the most proper place for holding the assizes, by their having established the county courts and quarter sessions there, and by their putting themselves to so great a charge in obtaining an act of parliament, and building a county-gaol, shire-hall, and other buildings necessary for holding the assizes at Aylesbury. Therefore if that county did not bring a complaint into parliament against holding the summer assizes so constantly at Buckingham, we are not to impute it to their not thinking themselves injured, but to their regard for the prerogative of the crown, and the power of the judges, both which they conceived would be impeached by bringing such a complaint into parliament, and for this reason they resolved to submit to the injury with patience, till they should find a judge, who had courage enough to break through the injurious custom that had been established.

This, Sir, they at last found in the judge who has been so often hinted at in this debate; but we now find that the town of Buckingham, or at least the gentlemen who set them on, are far from having the same regard for their sovereign, or the same respect for the judges of the realm: because a partial and unjust favour has been shewn to them for these 24 or 25 years past, they think they have prescribed a right to it, and conclude, that

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they are injured by being for once deprived of it; and throwing aside the regard due to the prerogatives of the crown, as well as the respect due to the judges of the realm, they have come here with a complaint, and modestly desire, that we should fix them for ever by act of parliament in the possession of that partial and unjust favour which they have already too long enjoyed.

I shall grant, Sir, that those gentlemen who are representatives of any county, city, or borough, are in duty bound to patronize them in any just and reasonable request they have to bring into parliament; but if the request be unjust, unreasonable, or inconsistent with the public good, their representatives should consider, that after they take their seats in this assembly, they become the representatives of the Commons of Great Britain, and consequently they are so far from being in duty bound to patronize or countenance the place they represent in any such request, that if they cannot by their advice prevent its being brought into parliament, they are in duty to their country bound to oppose it there. If they behave otherwise: if in order to recommend themselves to the favour of their constituents, and to secure their next election, they patronize them in such a request, and make use of all their interest, and all their abilities, to render it successfull, they sacrifice the good of their country to their own ambition, and consequently, with respect to them, it becomes not only a private job, but a private job of the most infamous kind.

I have shewn, Sir, that it is the interest of every county, and consequently the interest of the nation in general, to have the assizes held at the most centrical town of the county, when no particular reason of a public nature requires their being held at some other place; but as these particular reasons often occur, and are so various that they cannot be described, therefore no general regulation can in this respect be made, and for this reason the law has wisely left it to the lord chancellor, with the advice of the justices, and I must add, with the approbation of the crown, to appoint the place in each respective county where the next assizes are to be held. Thus the law stands at present: thus, Sir, it has stood for ages past without the least complaint of any grievance or abuse till the lodging the complaint now before us, and a short state of the case will shew, how this complaint is founded. A small town at the remotest corner of a county, where neither the county courts nor quarter sessions have been held for many years, and which is at a great distance from the town where the county gaol is by act of parliament established: this town, I say, come and complain, that the last summer assizes were held at the most centrical town of the county; the town where the county courts, the quarter sessions, and the elections of knights of the shire, have for many years been held; and the town where the county gaol and shire hall have by act of parliament, and at the expence of the county, been built and established. And the reasons they assign for this complaint are, that in former ages the county courts and assizes were held at their town, for particular reasons that now no longer exist, and that by the partiality of a late judge, who was their townsman, the summer assizes have been held there for 25 years past without interruption, to the great prejudice of several other towns and the greatest part of that county.

This, Sir, is the foundation of their complaint, and, I am persuaded, it will, to most gentlemen, appear extraordinary; but their request must appear still more extraordinary. Their request is, that we should encroach upon the prerogative of the crown, put an affront upon the judges of the realm, alter that law which has been found for the good of the nation in general, and do an injury to all the other towns, and the major part of the county of Bucks, by passing an act for fixing the summer assizes at their town *in secula seculorum*. Surely, Sir, their representatives can be under no obligation to patronize them in such a groundless complaint, or such an unreasonable request. If they do patronize them, many will be apt to suspect, that their patronage proceeds only from their private ambition, and if it does, it is a private job of the most infamous kind. For my own part, I am always willing to judge as charitable as possible of all men's actions, and therefore I must suppose, that as the young gentlemen who are representatives for the town of Buckingham, are natives of that part of the county, their partiality towards their *natale solum* prevents their seeing this affair in its proper light; but by this veil the eyes of a very few gentlemen in this House can be blinded; and now the affair has been set in a clear and proper light, I hope, the young gentlemen themselves will drop their patronage, and content themselves

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with having shewn, that if our judges should make use of any power they are vested with, for promoting their own selfish ends, they must expect to be exposed to the notice, and perhaps the censure of this august assembly.

Mr. *Henry Fox:*

Sir; I cannot help expressing my surprize at the opposition made to the Bill now before us: for my part, when I heard the Bill moved for, I thought it an affair of so private and indifferent a nature, that till I came this day to the House, I did not give myself the least trouble to consider, what might be said for or against it, and therefore it cannot be expected, that I am any way qualified for answering the many learned arguments that have been made use of, by the gentlemen who have spoke against giving it a second reading; but as there are many gentlemen in the same situation with me, this alone is sufficient for prevailing with us to order the Bill to be read a second time, that gentlemen may have time to consider what they have this day heard, and to examine what other arguments may be brought in favour of either side of the question.

In favour of the Bill, it is said, Sir, that the design of it is to do justice to the town of Buckingham, and to quiet the minds of the people of that county, who have been set at variance, by a piece of partiality shewn last summer by one of our judges, for a selfish end of his own, in favour of the town of Aylesbury. In this light I really think it an affair that deserves very little of our time, and much less of our zeal; but if we were to place an implicit faith in the gentlemen of the other side, it is a Bill by which the whole frame of our constitution is in danger of being dissolved, the prerogative of the crown encroached on, the judges affronted, the public brought into confusion, and the county of Buckingham highly injured.

I must confess, Sir, I am yet so blind as not to see any of these hideous consequences; I cannot see what this Bill has to do with our constitution, either in church or state, and much less can I see how the prerogative of the crown is thereby to be encroached on. Before the reign of Richard 2, I shall allow, that the crown had, by its prerogative, the power of appointing the places where the assizes were to be held in each county; but this prerogative was then given up, and the power lodged in the chancellor, with the advice of the justices for the time being, so that no prerogative of the crown can have the least concern in the present question; and as to the power vested in the judges, by the act of the 11th of that reign, surely it will not be said, that the parliament can no way limit that power, as to any particular county, without putting an affront upon the judges. We have in our statute books several acts of this kind. Was it ever said, was it ever thought, that by any of these acts an affront was put upon the judges? No, Sir, the parliament may have several reasons for directing the assizes to be held at one or more particular places in a county, though the judges have never been guilty of any abuse of their power, with respect to that county or any other, and therefore no such act can be supposed, as intended to put an affront upon the judges.

Then, Sir, as to the Bill's being inconsistent with the peace or the public good of the nation in general, I cannot conceive what connection there is between the place where the assizes are to be held for the county of Buckingham, and the peace or public good of the nation in general. But it is said, that the passing, or giving countenance to this Bill, will be the occasion of such Bills being brought into parliament with respect to every county in England, which will be the cause of great confusion in the country. How, Sir, can the bringing of any Bill into parliament occasion confusion? Has not every subject a right to petition the parliament? Has not every member a right to move for any Bill he thinks necessary? In every such case we are to determine, how the petition is to be received, or whether we are to give leave for bringing in such a Bill, and this determination has always, and may in all such cases be made, without causing any confusion. The proceedings, or resolutions of parliament, never have, nor ever can occasion any confusion; but the indolence, or neglect of parliament in not taking proper notice of the abuses of power, or in not removing those grievances which the people complain of, may, and often have occasioned confusion; and if a Bill should become necessary for fixing the assizes at a particular place in any other county, it would be our duty to pass it, though no such precedent as this had ever been made. Our neglecting our duty in this respect might be the cause of confusion; but no confusion can ever be occasioned by a diligent and faithful performance of our

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duty; and this, I must think, we should fail in, if we should refuse to countenance this Bill so far as to give it a second reading: for as former parliaments have found good reasons for fixing the assizes at certain places in other counties, such arguments may be offered, upon the second reading of this Bill, as ought to prevail with us to fix the summer assizes for the county at the town of Buckingham.

Lastly, Sir, as to the injury which it is pretended, may be done by this Bill to the county of Buckingham, I think we may be convinced from the map alone, that no great injury can be done to any part of that county. As to the breadth of the county, both Aylesbury and Buckingham are upon a par; for the one lies near the western, and the other near the eastern boundary of the county: and as to the length, which is the principal consideration, neither of them can be called centrical; for from Aylesbury to the northern extremity of the county is 38 measured miles, and from Aylesbury to the southern extremity of the county it is but 27; therefore to hold the assizes always at Aylesbury, would be an injury done to the northern part of the county. On the other hand, from Buckingham to the southern extremity of the county is 44 measured miles, and from Buckingham to the northern extremity it is but 21, therefore it would be an injury to the southern part of the county to have the assizes always holden at Buckingham. But in both cases the injury is so small, that it is not worth the notice of this House, nor was ever thought worth the notice of the county, till this dispute, which was first occasioned by transferring the assizes last summer to Aylesbury, inflamed the zeal of the contending parties so as to make mountains of mole-hills.

How I may fix my opinion, Sir, upon the second reading of the Bill, I cannot as yet determine; but in the light this affair appears to me at present, I think, the justest thing that can be done, is to have the assizes held alternately at these two places, after the example of the county of Sussex with regard to their county courts; and as the distance between Buckingham, and the southern extremity of the county, is greater than that between Aylesbury, and the northern extremity of the county, I think, it is perfectly right to have the summer assizes held at Buckingham, and the winter assizes at Aylesbury; by which means those that have the greatest journey to make, will never be obliged to make that journey but in the summer time; and those in the southern extremity, can never surely find fault with being obliged to ride 44 miles to the summer assizes at Buckingham, when they consider, that those in the northern extremity are obliged to ride 38 miles to the winter assizes at Aylesbury.

In short, Sir, from what I have observed in this debate, it appears to me, that the appointing of the place in each county, for holding the next assizes, has always been looked on, by our learned and wise judges, as a matter of such indifference, that they have at all times, and upon all occasions, made a compliment of it to one another; and as, I think, I cannot form an opinion from a better authority, nor follow a better example, I shall be for making a compliment of it, with respect to the county of Buckingham, to my friends who are the patrons of this Bill; consequently, so far as I can judge at present, I shall be not only for the Bill's being read a second time, but for its being passed into a law.

Mr. *Robert Nugent:*

Sir; as the hon. gentleman who spoke last, was, perhaps, in the secret of the dissolution of last parliament, he may have reason to be surprized at seeing an opposition made in this, to any thing that seems to be countenanced by our ministers; but no gentleman who has a true sense of the dignity of parliament, can be surprized at seeing a warm opposition made to this extraordinary attempt: an attempt to make parliaments the dirty channel through which ministers are to convey, not only their own, but the private jobs of every little favourite. If a county offends any of these favourites, it is to be punished by act of parliament: if a judge offends them, let his character be otherwise never so well established, he is to be censured by act of parliament: if a little borough does any of them an honour, it is to be rewarded by act of parliament. Against such acts, it is in vain to plead the prerogative of the crown, or the interest of the nation: it is in vain to plead the character of the judges, who, next to this House are the chief guardians of our liberties; it is in vain to plead our most ancient and most useful laws: every thing must give way, when a ministerial favourite finds it necessary, for any of his private purposes to have an act of parliament; and of this sort is the Bill now before us, which the hon. gentleman says, he thought of such

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a private and indifferent nature as not to give him the least uneasiness.

I confess, Sir, it seems, at first view, to be of no moment to any gentleman, not particularly interested in the county of Bucks, whether the assizes shall be held at Buckingham or Aylesbury; but when we consider the consequences, and the motives for bringing this Bill into the House, it becomes a matter of great moment to every man in the nation, who has any regard for our constitution, or for the dignity and honour of parliament. Even with regard to the county of Bucks, this Bill highly deserves our attention: for we ought never to do an act of injustice to any single man, much less to a whole county. If Aylesbury be the most convenient place for holding the assizes, it will be an act of injustice to that whole county to fix them, or either of them, unalterably at any other place. Who, I pray, are the best judges, what is the most convenient place for holding the assizes for any county? Surely the gentlemen of the county itself; and the majority of the gentlemen of that county have long, and often, manifested their opinion, that Aylesbury is the most convenient place, by fixing the county courts, and quarter sessions there and by building a county gaol and shire hall there at their own expence. Nay, the parliament has already determined, that Aylesbury is the most proper place: for wherever the elections of knights of the shire are to be held, that is certainly the most convenient place for holding the assizes; and the parliament has already declared, and enacted, that the sheriff shall hold his county court for such election, at the most public and usual place of the county, where the same hath most usually been for forty years last past, which, with respect to the county of Bucks, is at the town of Aylesbury.

These opinions, Sir, may be confirmed by a very cursory view of the map of the county: for from thence it will appear, that though Aylesbury be not exactly in the centre of the county, it is the most centrical place of that county where the judges and their attendants can be accommodated: and if it be a little farther from the northern, than the southern extremity of the county, this is a new argument in its favour; because many of the gentlemen of that county reside in London, and on their account the assizes ought to be held rather at a town which is nearest the southern, than at a town which is nearest the northern extremity of that county, because the former is much nearer London than the latter.

It is therefore evident, Sir, that by this Bill we are to do an act of injustice to the whole, or much the greatest part of the county of Bucks; and on this account alone it deserves our highest attention; but if we consider the encroachment that is thereby to be made upon the prerogative of the crown, the alteration that is to be made in one of our most ancient and most useful regulations, the unjust and undeserved censure that by the preamble is to be cast upon our judges, and the selfish motives that occasioned its being introduced, we must, I think, conclude, that it deserves our highest resentment. With regard to the prerogative, Sir, I am surprized to hear the gentleman argue, that because it is to be exercised by the chancellor, with the advice of the justices, therefore it has been given up: he may as well say, that the prerogative of giving orders and instructions to our admirals and sea captains has been given up, because the former must come from the admiralty office, and the latter from the office of the secretaries of state: he may as well say, that the prerogative of making treaties of peace and alliance has been given up; because the instructions must come from the office of the secretary of state, and the ratifications must be countersigned by the lord chancellor. At this rate, Sir, we should strip our sovereign of almost all his prerogatives; for most of them are exercised by, or with the advice of some great officer of state; and this is one of the chief beauties of our constitution, because those officers are answerable and may be punished if they do, or advise or concur in doing any thing that is wrong.

Thus, though the parliament has declared that the chancellor, with the advice of the justices, shall appoint the places for holding the assizes, yet still that appointment is to be reckoned one of the prerogatives of the crown, and was never since made without the approbation of the king: for the custom is, and ever since has been thus; the judges first meet and chuse their circuits, then the places are appointed in each respective county where the next assizes shall be held; which choice and appointment are put down in writing and carried by the chancellor to the king for his approbation, till which time it is never inserted in the London Gazette. Will



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any one say, Sir, that the king cannot, upon this occasion, alter this appointment: I shall grant, that the chancellor, if he thinks the alteration improper, is not obliged to concur, and in that case the king would be under a necessity to depart from the alteration intended, or to appoint a new chancellor. The case is the same with regard to the ratification of a treaty of peace, the chancellor may refuse to sign it, and the king would then be under a necessity to get the treaty altered, or to appoint a new chancellor; yet no one ever from thence argued, that the king has not, by his prerogative, the power of making peace.

This Bill is therefore plainly an encroachment upon the prerogatives of our sovereign, and the incroachment is the more heinous, Sir, because intended by his majesty's servants, and because of its being absolutely unnecessary: for if the assizes were last summer unnecessarily removed from Buckingham, as expressed in the preamble of this Bill, the gentlemen who think so, might have applied to his majesty or his chancellor, to prevent this removal, or they may now apply for preventing it in time to come. No man can pretend want of access; for his majesty's ear is always open to the just complaint of the meanest of his subjects. But these gentlemen in particular, cannot surely pretend want of access to their sovereign, as they enjoy such high and such lucrative posts in his service. 'Tis true, the methods by which they got into and now hold these posts, may be a reason for their being shy of making any application to the crown, and another reason may be, their being conscious of the groundlessness of their complaint, and suspicious that his majesty's penetration and justice would prevent his giving ear to it; but neither of these surely can be a good reason for our giving them any encouragement, in the application they have made to us.

But, Sir, if our regard for the prerogatives of the crown does not prevail with us to reject this Bill, I hope, our regard for the ancient laws and constitution of our country will be more successful. The reasonableness, and indeed the necessity of leaving it in the power of the chancellor, with the advice of the justices, to appoint what places in each county the next assizes shall be held at, has been so clearly stated by a learned and worthy gentleman in this debate, that I have no occasion to enlarge upon the subject. The very act itself, by which this power was restored and established, shews us, that this necessity was not discovered by speculation but by experience: and the long continuance of that act, the few alterations that have been made with respect to it, and the averseness that all former parliaments have shewn towards making any exceptions, are a farther proof of the utility of this general law. It is now about 360 years since that law was passed, yet in all that time there has been but one exception made, which was made at such a time as can give no great weight to the precedent, and the apparent reasons were much stronger than in the present case; for in Cumberland, the city of Carlisle is the most centrical, and indeed the only place in the county that could sufficiently accommodate the judges and their attendants; even with respect to the county courts, there are very few instances in England where they are fixed at any particular places by act of parliament; and in Northumberland and Sussex, which I believe are the only two, the assizes are not commonly, much less constantly, held at those towns where the shire courts have been fixed by act of parliament.

The parliament, Sir, has not only been careful not to encroach upon this power which has been so long, and which has by experience been found to be so usefully lodged in the judges, but it has likewise been careful to extend it, of which we had an instance in the first year of the late king. Till that time, the town of Launceston in Cornwall, by virtue of an ancient charter with a *non obstante*, pretended to a privilege of having the assizes for the county always held at that town, which is situated at the hithermost corner of the county. As this was inconvenient, the county petitioned to have the summer assizes fixed at Bodmyn, as a place more commodious, and nearer to the heart of the county. What did the parliament do upon that occasion? They demolished the pretended privilege of Launceston; but they would not fix either of the assizes at any particular place; on the contrary, they passed an act empowering the chancellor, with the advice of the justices of assize, to appoint from time to time a convenient place in that county for holding the assizes, in the same manner as for any other county in England.

Thus we see, Sir, what regard has been shewn, by former parliaments, to this part



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of our ancient constitution, and for the sake of justice, for the sake of our own honour, I hope to see the same regard shewn to it by the present. I say, Sir, for the sake of justice; for by the preamble of this Bill our judges are expressly censured. They are charged with having unnecessarily removed the assizes last summer from Buckingham; and this is made the only foundation of the Bill. Can this be looked on any otherwise than as a censure? Do not let us thus pass a censure, Sir, upon we know not whom, and for we know not what. If the assizes were unnecessarily removed, let the affair be regularly enquired into; let the judge that removed them be named, and let him be called to answer for himself. Without this, we shall give a stab in the dark, and a stab that, for what we can know by any parliamentary means, may be directed against the innocent, as probably as against the guilty.

Then, Sir, as to the honour and dignity of parliament, if we consider the motives for introducing this Bill, we cannot suppose it consistent with our dignity to give it any countenance. These motives must be founded upon partiality or ambition: they cannot possibly be motives of a public nature; and it is inconsistent with the dignity of parliament to pass a public Bill upon any other. As to the hon. gentlemen who are representatives for the town of Buckingham, I can easily excuse their engaging in this project: their zeal for the service of their borough may prevent their seeing the bad consequences that may ensue; but I cannot conceive what tempted our ministers to give their countenance to such a project. It would seem as if they were grown tired of the calmness, and serenity, with which they have hitherto passed through this session. We have, in this session, raised immense sums upon the subject: we have imposed taxes, which posterity, I fear, will find insupportable; we have done every thing they desired, without the least opposition. Till this Bill was introduced, under their patronage, they did not meet with any thing that deserved the name of a ruffle; and if they had not embarked in this project, the session might probably have ended as it began.

When I consider this behaviour of theirs, Sir, I cannot avoid recollecting an accident that happened last summer at my house in the country. Among my other visitors, I had an old sea captain, who staid some days with me. This old gentleman had been in many tempests, and many engagments at sea, but was never ship-wrecked or wounded, nor had ever met with any other misfortune. One day as we were walking upon the side of a canal I have there, in which there was a little cock-boat, the old captain took it into his head to get into this cock-boat and put off upon the canal. I apprized him of his danger, by telling him the boat was too small, and besides, almost as old as himself: but the old gentleman was obstinate. Into the boat he goes, and puts off; but he had scarcely got into the middle of the canal, when down he goes boat and all together, and my old captain was not only ducked over head and ears, but really in some danger of being drowned. Let our ministers apply this, Sir; they are got into a cock-boat; I would advise them to get out as soon as they can, lest they should meet with some disaster, more fatal than that my old captain met with.

The question was then put for reading the Bill a second time, which was carried in the affirmative by 182 against 112.

March 2. Five Petitions of the gentlemen, clergy, and freeholders of the county of Buckingham were presented to the House, setting forth, "That whereas a Bill was then depending in parliament, to oblige the judges to hold the summer assizes for the county of Bucks, at the town of Buckingham; and as the said town lay in an extreme corner of the county, and was in every respect a very inconvenient place for holding the Assizes or Quarter-Sessions, the holding them at so great a distance from several parts of the county, would occasion a great deal of unnecessary trouble and expence, both to those who seek justice, and to those who attend on the administration of it; and further representing, that, upon a representation made by the county to parliament, that the town of Aylesbury was the most proper place for the Assizes and Quarter-Sessions, an act passed in the 10th of his present majesty, for the finishing and completing a gaol and shire-hall there, and that a very great sum of money had been expended thereupon, in hopes that the same would be for the general advantage of the county; but that whenever the Assizes were held at Buckingham, the county had no advantage thereby, and a further charge was laid upon them, as well to remove the prisoners from Ayles-

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bury thither, as to set a guard over them there, to prevent their escape; and praying that a Bill so contrary to the intent of the said act, and so prejudicial to the general interest of the county, might not pass."

These Petitions being ordered to lie upon the table till the second reading of the Bill, it was then ordered to be read a second time on the 8th; on which day, after reading, upon a motion for that purpose, the act of the 11th of Richard 2, intituled, 'The keeping of the Assizes in good towns referred to the consideration of the chancellor and justices, &c.' a motion was made for leave to bring in a Bill to repeal the said statute, and to appoint a convenient place for holding the Assizes in every county in England; whereupon it was moved, that so much of an act made in the 11th of Henry 7, intituled, 'The Names of Cities and Towns limited for the keeping of Weights and Measures,' as relates to the names of towns limited for the safe custody of weights and measures, according to the king's standard, for the shires of Buckingham and Somerset, might be read; which being read accordingly, the question was put upon the former motion; but as it seems to have been intended only to throw a slur upon the Buckingham Bill then depending, it was carried in the negative.

After which, a Petition of the lord lieutenant, the nobility, gentry, and freeholders of the county of Buckingham; and another Petition of the gentry, clergy, freeholders, and other inhabitants of the county of Buckingham; were presented to the House in favour of the Bill: then another Petition of the gentlemen, clergy, and freeholders of the county, was presented against the Bill: all which were ordered to lie upon the table; and the order of the day being read for the second reading of the said Bill, a Petition of the inhabitants of the town of Aylesbury was presented and read, but was, upon a motion, rejected; after which, the Bill was read a second time, and a motion made, That it should be committed, which occasioned a new debate; but the motion was at last agreed to, and the Bill committed for the 10th, when no fewer than 28 Petitions of the gentry, clergy, freeholders, and other inhabitants of the said county, were presented in favour of the Bill, and all ordered to lie on the table. Then there was presented a Petition of the high-sheriff and grand-jury of the county of Buckingham against the Bill; and concluded with praying to be heard by their counsel against the Bill, and permitted to prove the matters they had alleged in their Petition.

This Petition was likewise ordered to lie upon the table; and the House having resolved itself into a committee of the whole House upon the said Bill, and having gone through the same with some Amendments, the report was made next day, the amendments agreed to, and the Bill ordered to be engrossed. Upon this, a motion was made, that the high-sheriff and grand-jury of the county, who had petitioned, should be heard by their counsel at the third reading thereof, if they thought fit; which motion was agreed to; and the Bill was ordered to be read a third time on the 15th.

March 15. The counsel against the Bill were heard; after which, there ensued a long debate; and the question being at last put, that the Bill do pass, it was carried in the affirmative by 155 to 108.

*Debate in the Commons on a Petition for suppressing Hawkers and Pedlars.**] March 19. A Petition of the trading citizens of London, inhabiting within the said city, and parts adjacent, was presented and read; setting forth, "That, in the 9th and 10th of king William the 3rd, an Act passed for licensing of Hawkers, Pedlars, and petty Chapmen, to trade from town to town, or to other men's houses, travelling either on foot, or with horse, horses, or otherwise, within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, except as therein is excepted; which said act has, by two subsequent additional clauses, been continued for ninety-six and one year, from the 23d of June 1710, thence next ensuing; and that the petitioners apprehend, that the said statute, however well intended, has proved of the highest detriment imaginable to the fair trader, by such as have been licensed, practising illicit dealing, and, under cover of the said statute, defrauding the revenue, and abusing ignorant and unwary people with deceitful wares and merchandizes, to the great scandal and reproach of trade: and therefore praying the House to take the premises into consideration, and amend, or totally repeal, the said act; and if it be

* From the London Magazine.

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the pleasure of the legislature to repeal the act, that then, as an equivalent for the same, and to be appropriated to the like uses, they would lay a tax, not exceeding 2*s.* a year, on all traders within the limitation of the said recited statute; and that the act for that purpose may be supported by such clauses, on behalf of the settled and fair trader, and for the entire suppressing of Hawking and Pedling, as may appear most effectual to answer the laudable intention of the said equivalent; or that the petitioners may be otherwise relieved as to the House shall seem meet."

The Petition being read, the following Debate ensued:

Mr. Alderman *Bethell* rose and said:

Sir; the Petition now read has opened to you three grievances of so great consequence, that every one of them deserves your most serious consideration; and as it will, without question, be supported by petitions of the like nature from most of the considerable trading towns in England, I make no doubt of its meeting with all due attention in this House. The three grievances complained of are, 1st, The detriment which the fair traders and honest shop-keepers in this kingdom suffer, by the liberty allowed to hawkers, pedlars and petty-chapmen, to trade from town to town, and to other men's houses. 2dly, The loss which the public revenue is thereby exposed to, not only by many of these people travelling without any licence, but by their having an opportunity to dispose of prohibited or uncustomed goods. And, 3dly, The damage which ignorant and unwary purchasers often suffer, by having deceitful wares and merchandize put upon them, or by being drawn in to pay sometimes more than double price; to which I may add, the great scandal and reproach, by such means brought upon trade in general.

These are grievances, Sir, which in some degree affect every man in the kingdom, but principally our honest and careful shop-keepers, who pay high rents for their houses, contribute a large proportion to our public taxes, pay all parish rates, and chiefly bear the burden of all chargeable civil offices, whilst their trade is intercepted, their customers supplied, and their market forestalled by men, who are put to little or no expence upon any of those accounts; and consequently, and even in a fair way of trade, might undersell them in every sort of commodity. But this is far from being the only advantage such men have over the fair and settled trader; for, as men who travel from house to house, and from county to county, give themselves no concern about preserving a character, they get such profits by run goods, and by selling at high prices to ignorant purchasers, as enable them to sell at an under price, when they happen to meet with a customer who, they find, undertands the commodity he is about to purchase. And another great advantage is, that whatever they sell, is sold for ready money, so that they are never obliged to lie out of their money, perhaps for years, as shop-keepers are often forced to do; nor do they lose any thing by giving credit, whereas a settled shop-keeper sometimes loses more by the insolvency of one customer, than he can get by twenty to the same value.

When I consider these advantages, Sir, I am so far from being surprised at the number of our hawkers and pedlars, that I am surprised we have a shop-keeper left in the kingdom; and what with hawking and pedling, with retail warehouses, and with sales, which of late years have become so frequent, I am persuaded, that the business of shop-keeping will daily decrease; for these rival trades have lately increased so much, that our shop-keepers have hardly any customers left, but such as come to take goods upon trust; and a man must have a very large stock, who deals with such customers only.

This consequence, Sir, deserves very much the attention of our land-holders, especially such of them, whose estates consist chiefly in houses; but even those whose estates consist in farms, will likewise be sufferers; for by this means many of our great towns will fall to decay, and become destitute of substantial inhabitants; and the decay begins already to be felt in all the chief streets of London, and most other cities in England; because hawkers and pedlars always live about the skirts of great towns, and warehouses and auction-rooms are generally kept in bye-corners. By this means the beauty and magnificence of our great cities will evanish, and by their decay the value of most of the farms in England will be diminished; for if the farmers have not a ready vent for the produce of their farms, especially that part of it which cannot be exported, it will be impossible for them to pay so high a rent for their farms as they do at present.

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From these considerations, Sir, it must appear, that it is very much our interest to discountenance every sort of business that interferes with that of the substantial and settled shop-keeper; and as it is very difficult for such to deal in any prohibited or uncustomed goods, it would certainly be of advantage to the public revenue, could the retail trade be confined to them alone. The loss which the public revenue suffers, by hawkers and pedlars neglecting to take out licences, may, perhaps, be very inconsiderable; but the loss sustained by the opportunity they have to vend prohibited or run goods, is, perhaps, more than can be well imagined. It is a common saying, If there were no receivers, there could be no thieves; and I am very sure, there would be no smuggling, if there were none who durst venture to sell smuggled goods. As a substantial shop-keeper has always two or three people, besides himself, in his shop, and as his shop is always liable to be visited by the officers of the revenue, it is so dangerous for him to keep or dispose of any run goods, that no such man of any prudence will meddle with them; but a hawker or pedlar is subject to none of these restraints: he has generally no servant, and as he trades from house to house, he learns what sort of goods they have occasion for, and brings his run goods from the private places where he conceals them, directly to the house where he sells them; so that he is never in any fear of being betrayed by his servant, nor is it possible for the officers of the revenue to discover and visit or search his secret warehouses or magazines, or to watch and seize the goods in their conveyance from thence to the purchaser: whereas, when such goods are conveyed from a known place of sale, they may be watched, and seized in their passage by a diligent officer.

We may, therefore, Sir, with some certainty conclude, that large quantities of smuggled goods find a vent by means of our hawkers, pedlars, and petty chapmen; and that, if our retail trade were confined to our public markets and public shops, it would be very difficult for our smugglers to find purchasers for their goods, even after they have found means to run them clandestinely into the island. Then, lastly, Sir, as to the damage suffered by ignorant and unwary purchasers, and the scandal thereby brought upon trade in general, I believe, no man can deny the existence of this grievance, who has ever dealt with these hawkers in the purchase of any commodity, which he did not thoroughly understand; for they not only often sell damaged or deceitful wares, but they generally, at first, ask three or four times the price; and the cause of their dealing in this fraudulent manner is very obvious; as they have no settled or known abode, the deceived purchaser cannot go to them to complain; and when they have put a manifest cheat upon a purchaser in one coffee-house, or in one county, they take care to avoid going there again, till they think their faces are forgot: whereas a man who keeps a public shop, must take care of the character of his shop, as well as his own, otherwise he can never expect to thrive in his business; and this must always prevent his exposing to sale any damaged or deceitful wares, as well as his asking a great deal more than the true price.

To what I have mentioned, Sir, I shall add another bad consequence arising from our hawkers and pedlars, which is the encouragement thereby given to our manufacturers, and mechanics, to be negligent in the choice of their materials, as well as in the way of working them up. A shop-keeper is generally bred up, from his infancy, in the business in which he deals; consequently, he understands, and is a judge of all the commodities he has to sell in his shop, and for the sake of his character he will take care to have nothing but what is good and perfect in its kind; but any person may set up the trade of a hawker or pedlar. Very few of them have been bred up in the business, from their infancy, or can judge of the commodities in which they deal; and none of them have any regard to their being really good and perfect in their kind: if what they buy, for retail, does but look well to the eye, and can be bought cheap, so as that they may get a great profit by the sale, they give themselves no farther trouble; and thus, by their means, our workmen find a vent for pieces of work, which no honest or skilful shop-keeper would expose to sale in his shop. This, Sir, has a very bad effect upon our manufactures of all kinds; but, chiefly, upon those which generally go under the name of toys, a sort of manufacture we were lately famous for all over Europe; because they were not only beautiful, but substantial, and worked up to the greatest perfection; but they begin already to lose their character abroad, and the best way for recovering it, will be to prevent, as much as we can, the

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sale of any bad wares of this kind at home, which may, I think, be in a great measure effected by confining the retail trade to our shop-keepers only.

In short, Sir, the business of hawking and pedling is attended with so many bad consequences to trade in general, and with so little benefit to the public in any respect whatsoever, that we cannot too soon put an effectual stop to it. The only objection is the small branch of the public revenue which arises from the licences granted to such sort of dealers; and as this will be more than made good by the tax upon shop-keepers proposed by this Petition, the objection is effectually removed; consequently, I hope, the Petition will meet with all due consideration in this House; but I shall delay making any motion, till I see how the proposal therein mentioned is relished in other parts of the kingdom.

Mr. *Robert Viner:*

Sir; as the political malady which has given rise to this Petition, affects every part of the kingdom as well as the traders and shop-keepers of London, I do not question our having petitions of the same nature from many other places; but in all such cases we should look upon ourselves as state physicians, and every experienced physician will tell you, that a patient generally mistakes entirely the nature of his ailment, or ascribes it to a wrong cause. A good physician will not therefore trust to his patient upon either of these heads, but will examine into his complaints, and into his conduct and manner of living for some time before, in order, from thence, to discover the true nature of the distemper which his patient labours under, and the real causes of that distemper. Upon the physician's judgment, in this case, depends in a great measure the success of his prescriptions; and a mistake often proves fatal.

A decay of trade, Sir, and a difficulty to support and provide for their families, by the profits of their trade, are the ailments which all the traders and shop-keepers of this kingdom now complain of, and with too much reason complain; but when they ascribe these ailments to the liberty which, by law, is allowed to hawkers and pedlars to trade from town to town, and to other men's houses, I am almost certain, they mistake the cause of their ailments. From the manner they express themselves, in the Petition now before us, they seem to be of opinion, that this liberty was first granted to hawkers and pedlars by the act of the 9th and 10th of king William, whereas the direct contrary is true; for by that act, or rather by the act of the 8th and 9th of the same reign, the almost unbounded liberty, formerly allowed to hawkers and pedlars, at least to such of them as had houses, or such a settlement in any parish as might prevent their being deemed vagrants, was restrained to such only as should be licenced, and should pay yearly a heavy tax for that licence. I say, Sir, a heavy tax; for the tax paid now by hawkers and pedlars is more than all the parish rates usually paid by the occupiers of small houses, or little shops, can be supposed to amount to; and besides, we have still many hawkers and pedlars who have houses and shops in some corporate towns or in villages, and consequently must pay their share of all public burdens, and take their turn in serving all parish offices, over and above the annual tax which they pay for their licences.

We must therefore suppose, Sir, that if the trade of our shop-keepers was ever hurt by the liberty allowed to hawkers and pedlars, to trade from town to town, and to other men's houses, that hurt could never have been so great since these acts were passed, as it must have been before that time: and consequently, we must suppose, that if the trade of our shop-keepers be now diminished, and if they now find a greater difficulty to support and provide for their families by the profits of their trade, than they found in former times, these misfortunes must proceed from other causes, and those causes are not, in my opinion, beyond our finding out, though some of them are, I fear, above our power to remedy. One of those causes is not only evident, but is a necessary consequence of the increase of the number of our shop-keepers, which increase proceeds chiefly from the decay of our foreign commerce. By this decay we have lost the means of providing for near so great a number of our young people in the several branches of our foreign commerce as we did formerly; and, consequently, parents are forced to put their younger children out apprentices to shop-keepers, which has so greatly increased the number of the latter, that every branch of that sort of business is overstocked, and they starve one another. When a woollen draper, linen-draper, mercer or grocer has bred up half a dozen apprentices, perhaps

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all of them the sons or relations of his customers, and most of them set up in his way of business, and in the same town or county with himself, can we be at a loss to discover the reason why this shop-keeper's business begins to decay? Is not this now the case with almost every shop-keeper of any standing in the kingdom? And when such a multitude of young shop-keepers are daily setting up in every sort of business, is it not evident, that the fountain of trade thus divided into half a hundred channels, cannot flow so plentifully into any one channel, as when it was not divided into above half a score? It may now so happen, that one of these fifty shops, by accident, or by the superior skill and industry of the occupier, runs away with the greatest part of the business in that way; and the same thing not only might, but frequently did happen, when there was no more than ten shops in that way; but 49 complaining of the decay of trade will make a greater noise, and will be more easily believed, than when there were but nine shops who could make any such complaint.

From hence, Sir, we may see a very good reason, why there should be a general complaint among our shop-keepers as to the decay of their trade, and yet there may be no ground for imputing that decay to our hawkers and pedlars, or to any advantage they have over the settled shop-keeper. It is, I am convinced, chiefly owing to the great increase in the number of our retail-shops; for in all those sorts of business, which depend upon home consumption only, they are very liable to be over-stocked, which makes a remarkable difference between them and those sorts of business which depend upon foreign commerce; it being scarcely possible for the latter to be over-stocked, if care be taken to enable our dealers in such sorts of business to undersell their foreign rivals in all sorts of commodities; which leads me to consider the difficulty our shop-keepers now find to support and provide for their families by the profits of their trade.

At the same time, Sir, that their trade, and consequently their profits, are very much diminished by the increase of their numbers, their expence in living, and subsisting their families, has been vastly increased by the multitude of taxes imposed within these last fifty or sixty years. This, Sir, is a grievance, which affects not only our shop-keepers, but every other sort of business within the kingdom, relating either to our domestic trade or foreign commerce. Even our farmers are more affected by this grievance than most people imagine; and if we do not fall upon some way to abolish those taxes which enhance the price of all the necessaries of life, I am persuaded, that most of the land rents in the kingdom must, in a short time, be lowered. As a proof of this, Sir, I myself know an old farmer, who has, by himself or father, held the same farm for above fifty years, without any increase or diminution of rent till lately; but when his term was last near expiring, he came to his landlord, and said, Sir, I come to you with an aching heart, to tell you, that I must either have my rent lowered, or I must quit the place in which I have lived from my infancy. Upon the landlord's asking his reason, he answered, he did not know what was the matter, but though he lived as frugally, was as industrious, and really produced as much from his farm, as he ever did in his life-time, yet he found, that, for several years past, he had been running out, and every year diminishing the small sum he had saved in his younger years; so that he must be reduced to beggary in his old age, if he held that farm any longer at the same rent. The landlord, who was a man of sense as well as compassion, knew what the farmer was ignorant of: he knew, that the expence of supporting a family, even in the most penurious way, as well as the expence of managing a farm, had of late years been so much increased by our taxes, that what the farmer said might very probably be true; therefore, rather than turn the old man out, he let him have a new lease, at a fourth less than the old rent; and, I am afraid, many landlords in England, who have farms let at a rack-rent, may soon be reduced to the same necessity, with regard to most of the new leases they may hereafter make.

Sir, it is this increase in the expence of subsisting a family, that makes it now so difficult for our shop-keepers to support and provide for their families, by the profits of their trade; and as most of them, like the farmer I have mentioned, are ignorant of this cause, they ascribe the difficulty to a decay in their trade, which makes them imagine that decay to be greater than it really is. This augments and renders more general the complaint of our shop-keepers, as to the decay of trade; and as all of them are fond of a number of

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apprentices, for the sake of the large sums they get with such by way of apprentice fee, they are willing to impute this decay to any cause, rather than that of their breeding up, or having bred up too many of our youth to their own way of business.

From what I have said, Sir, we may easily discover the true cause of the present complaint against hawkers, pedlars, and petty chapmen. I shall indeed grant, that the settled shop-keeper may suffer a little in his business by these travelling-shops; but as few people purchase any thing but trifles from these travelling dealers, and often such trifles as they would not purchase at all, if they were not thus laid in their way, what the settled shop-keeper suffers by this means must be very inconsiderable: whereas, if we were to lay an absolute prohibition upon all hawkers, pedlars, and petty-chapmen, we should expose all families that live at any distance from a market-town, to great inconveniences, and should very much injure the business of all our mechanics and workmen tradesmen.

As to those families that live at any distance from a market-town, it would be very hard to prevent their having a yard of ribbon, or any such trifle, which they may have occasion for, without being forced to send a servant express for it to the next market-town, perhaps at three or four miles distance. And as to mechanics and working tradesmen, we may easily judge how much they would be oppressed by our settled shop-keepers, if there was no such thing as hawking and pedling, no, not even for a workman with respect to the work of his own hands. When I have said this, Sir, I must observe, with the great Mr. Locke, that our mechanics and working tradesmen deserve much more the care of the legislature than our shop-keepers, who are, as he says, but a sort of brokers between the manufacturer and consumer; and the public ought to take as much care as possible, that the broker shall not have it in his power to beat down too much the price of the manufacturer's labour, or to raise too high the price of the consumer's purchase, in order to squeeze an unreasonable profit or reward for his brokerage. This, I say, the legislature in every country ought to take all possible care to prevent; and this can no way be so effectually done, as by allowing a free liberty for hawking and pedling; because while such a liberty is allowed, the shop-keepers of any city or town can never form a combination for reducing too low the price of the ingenious artist's labour, or raising too high the price of what the consumer must necessarily purchase. Whereas, if the retail be confined to a few settled shop-keepers, such a combination may be entered into with so much secrecy, that it will be impossible for the magistrate to discover and convict the offenders.

Let us therefore, Sir, take all possible methods for giving relief to our settled shop-keepers, but not such a relief as may be injurious to a set of men, who deserve more than they the public concern. This last would, I am convinced, be the effect of a total prohibition of hawking and pedling, and at the same time, I am convinced, that such a prohibition would contribute very little towards the relief of our shop-keepers; for while the business is in every branch over-stocked, and while the expence of living is by our taxes kept so high, the same distresses, the same complaints would continue among our shop-keepers, were there not a hawker, pedlar, or petty chapman left in the whole kingdom.

I hope, I have now shewn, Sir, that the first grievance complained of by the hon. gentleman who presented this Petition, is without any solid foundation; and as to the second grievance he complained of, which was that of the loss suffered by the public revenue, I believe, the petitioners will not be able to produce many instances of licensed hawkers being prosecuted, much less convicted of selling prohibited or smuggled goods. It is, indeed, hardly possible for them to deal in this way, because of their being so liable to be searched in their walks by custom-house or excise officers, and because their pack must be opened, and their whole cargo exposed at almost every house they go to. I shall readily grant, that if there were no receivers there could be no thieves, and that there would be no goods smuggled if there were nobody to dispose of them; but we know, that the persons usually employed to dispose of such goods, are generally such as have little, if any other business; and while our duties are so high, I believe, no punishment can prevent this clandestine sort of trade; for notwithstanding the severity of our laws against thieving, and against receiving stolen goods, we find, we have still a great many receivers, as well as a great many thieves, amongst us.

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This is therefore, in my opinion, Sir, nothing but a pretence suggested by the petitioners, for giving some weight to their Petition; and as to the frauds put by hawkers and pedlars upon those that deal with them, and the scandal thereby brought upon trade in general, it is a charge which some shop-keepers are not absolutely free from, and a charge, which no law can effectually provide against, without ruining the retail trade. In cases where the fraud is very gross or frequently committed, the offender may be indicted and punished as a cheat; but in all other cases the law can say no more than *caveat emptor;* and as the business of shop-keeping is quite distinct from that of hawking and pedling, the frauds committed by hawkers and pedlars, when they meet with ignorant customers, can never bring any scandal upon shop-keepers, but on the contrary, will raise their credit, and make people resolve to deal with them only, when they are to purchase any thing they do not thoroughly understand.

And lastly, Sir, as to the encouragement said to be given by our hawkers and pedlars, to our mechanics and manufacturers, to be negligent in the choice of their materials, as well as in their way of working them up, I believe this charge may be as justly brought against our little shop-keepers, as against our hawkers and pedlars; but I cannot conceive, how this can have any effect upon the character of our goods abroad; for neither our hawkers nor our little shop-keepers ever deal in exportation; nor can we suppose, that our merchants exporters ever deal with them.

In short, Sir, if the affair be duly considered, we must, I think, conclude, that no one bad consequence can be truly said to arise from the liberty allowed to hawkers, pedlars, and petty chapmen to trade from town to town, and to other men's houses; and as it is a great convenience to all families that live in the country, as it increases the sale of many productions of art, and as it prevents many of our ingenious artists from being oppressed by our rich shop-keepers, I think, it ought to be encouraged rather than prohibited, especially as it has furnished, and still may furnish many of our industrious poor with an opportunity to become dealers, and at last to become rich shop-keepers, or considerable merchants.

At the same time I must say, Sir, that I believe the present complaints of our shop-keepers to be very just, and that I most heartily wish we could fall upon any method to remove those complaints; but, as I have already observed, their complaints proceed from the late extraordinary increase of their number, and from the present heavy burden of our taxes. These are the two chief causes of their misfortunes, and the first of these will, by the natural course of things, be removed; for as the business of shop-keeping is of late become so precarious and uncertain, people will begin to think of breeding their children up to some other sort of business, by which the number of shop-keepers will naturally in a course of years be reduced, so that in half a century, or perhaps less, it may again become a very profitable sort of business. This, I say, Sir, will be the consequence from the natural course of things; but whether it may be proper to assist nature by a law for restraining shop-keepers from breeding up too many apprentices in their way of business, is what I shall not take upon me to determine.

As to the other cause of the complaints of our shop-keepers, it may be in our power, nay, it is now in our power, but I am afraid, it will never be in the will of any minister to remove it, or of any parliament to compel him to do so. When I say this, Sir, I believe, every gentleman will suppose, that I mean an alteration in our method of taxation; for as the public revenue cannot be diminished till our debts are paid off, no tax now subsisting can be abolished without replacing it by some other; but I believe, every gentleman is now sensible that, in order to multiply those posts and places which are in the gift of the crown, we have been led into a wrong method of taxation. By our customs and drawbacks upon importation and exportation, we have so loaded our foreign commerce, and made it so inconvenient and troublesome, as well as expensive, for every man concerned in it, that several neighbouring countries have greatly the advantage of us; and by these customs, and our excises, we have so loaded many of the necessaries as well as conveniences of life, and thereby enhanced so much the price of labour, that few of our manufactures can be sold so cheap as those of our neighbouring countries; nor can our merchants, shop-keepers or master tradesmen live at so cheap a rate as those of the same rank may do in other countries, supposing both to live equally well. And to add to our misfortune, we have



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not only continued but proceeded further in the same method of taxation, after we saw, or might have seen, that almost every state in Europe was setting up to rival us in every branch of foreign commerce, and every kind of manufacture.

I shall not pretend, Sir, to prescribe, or even to suggest what new method of taxation we ought to fall into, or what other taxes can be invented for replacing those we have; but this I will say, that if all our present customs and excises be continued but a few years longer, we shall have little or no foreign commerce left, but that to our own plantations, nor any manufactures, but such as are necessary for our home consumption; for in a competition between two countries for commerce, that country will certainly at last prevail, where commerce may be carried on with the smallest stock, and with the least trouble and expence; and in a competition for manufactures, that country will certainly at last prevail, where the poor labourer and manufacturer may enjoy some of the comforts as well as necessaries of life at the cheapest rate. If one of these countries be in possession of an extensive commerce and a flourishing manufactory, it may hold out for a long time against its rival, by the knowledge of its merchants and ingenuity of its workmen; but both will be at last acquired by those of its rival, and then the cheapness of living or freedom of commerce will certainly prevail.

In this country, Sir, we have so many natural advantages, that no country in the world can get the better of us, either in commerce or manufactures, if we do not deprive ourselves of these advantages by our own misconduct. As the life, liberty, and property of the subject are better secured by the constitution of our government, than by that of any neighbouring country, it must always contribute to the encouragement and preservation of our commerce and manufactures; but this advantage we are in danger of losing by those very taxes, which lie so heavy on our commerce and manufactures: for by those taxes such a multitude of posts and places have been of late created, that the independency of our parliaments, and consequently the security of the subject seems to me to be in the utmost danger.

We have another great natural advantage, Sir, from our situation in an island, by which our internal tranquillity is less exposed to disturbance from foreign invasions than that of our neighbours, and this advantage we shall hold as long as we preserve our superiority at sea; but if our foreign commerce be transferred to any of our neighbours, especially the French, they will become superior to us at sea, and may then disturb our internal tranquillity as often as they please; for which the factions and divisions amongst ourselves will at all times furnish them both with a pretence, and a favourable opportunity.

And, Sir, we have a third natural advantage from the fertility of our soil, and the great plenty of all things necessary for the support of life; but this advantage we have already in a great measure lost, by prohibiting the importation of such things from one part of our dominions to the other, and by our heavy taxes here in England upon malt, malt liquors, salt, leather, and many other things which our farmers and their servants must make use of; the necessary consequence of which is, that they must either sell the produce of their farms at a dearer rate than they might otherwise do, or they must be disabled from paying so high a rent to their landlord; and though the last would be the least prejudicial to the country in general, yet we have taken care, by our prohibitions, and our bounties upon the exportation of corn, to render the first consequence solely and absolutely necessary.

Though these observations may to some gentlemen seem foreign to the subject, yet, Sir, when they seriously consider, I believe they will allow, that our misconduct in these respects is the chief cause of the present distresses and complaints, not only of our shop-keepers, but of all ranks of men in the kingdom; and I shall conclude with this observation, that our ministers ought to return thanks to the projectors and subscribers to this Petition, because they have furnished them with a plan for a new tax, upon which a very large sum of money may next year be raised for the prosecution of the war, if they do not in the mean time put an end to it, by submitting to an inglorious peace. But if this plan should be adopted, I believe, the petitioners will find it altered very much to their disadvantage; for I must suppose, that our great and rich shop-keepers have been the chief promoters of this Petition, and every one will tell them, that it would be very unjust, to make a little chandler's or haberdasher's shop pay as much yearly to-

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wards this tax as a great woollen-draper, mercer, or grocer; therefore, if this project be ever adopted, I am persuaded, that care will be taken to make every shop pay in proportion to the rent of the house; and if the project should be thus altered, every indifferent man in the kingdom would agree, that the petitioners deserved what they had met with; for after the experience of the Pot-act, I believe, no one expected, that any set of men in the kingdom would have turned projectors for laying a tax upon themselves. By that project, Sir, our alehouse-keepers within the bills of mortality got a law for preventing the sending out of their pots; but in a short time their pots were sent out as much as ever, though for many years they remained liable to the tax, which they had proposed and agreed to pay, in consideration of that law: in like manner, Sir, our shopkeepers may get a law for preventing hawking and pedling, but the practice is so necessary, that it would, I am persuaded, be in a short time connived at, as much as it was before the act of the 8th or 9th of king William; though I doubt much if our shop-keepers could ever get rid of the tax which they had projected, and agreed to pay in consideration of that law.

This I thought proper to mention, Sir, as a caution not only to those who have signed the Petition now before us, but to all those who may be inclined to join in any such petition. Whether they will take the caution I have given, is what I do not know; but whether they do or no, I shall tell them, that for their sakes, as well as for the sake of the public in general, I shall be against complying with their request, and consequently against any project, our ministers may hereafter form in pursuance of their request.

*Mr. Henry Penton:*

Sir; if we were to allow the hon. gentleman who spoke last, to be a just painter, and to have given us a true representation of our affairs, we should have a most melancholy prospect, for our ruin would not only be evident but inevitable; considering the vast number of regular veteran troops now kept in continual pay by France, the small number of such troops kept up here, and the almost total decay of military discipline among our people, it is apparent, that the moment the French get a superiority at sea, we shall become a province to that monarchy; and if they should deign to leave us the honour of having the name of a king amongst us, he would be no more than a viceroy under the French monarch, and would be under a necessity of being as observant of the instructions he received from the court of Versailles, as any of our American governors are now of the instructions they receive from the court of London. But, thank God, our case is not quite so desperate: they have customs and excises in France, and in every other country, as well as we have in this; and their customs and excises lie as heavy upon their commerce and manufactures as our customs and excises lie upon ours; therefore we are in this respect upon an equal footing with our neighbours; and it is with good reason to be hoped, that our natural advantages will always preserve to us our superiority in commerce and manufactures, as well as in the strength of our navy.

This, I say, Sir, we have very good reason to hope; but then we ought in common justice to take care, that all those who profit by our commerce and manufactures, should pay their proportionable share towards the public expence; and it is upon this principle that the Petition now before us is founded, as well as upon the supposition, that the trade of our shopkeepers is intercepted and forestalled by our hawkers and pedlars. As to the principle of common justice, upon which this Petition is founded, I believe it will be granted, that many of our hawkers and pedlars make as much clear profit yearly, as most of our little shop-keepers in London, who have a family to maintain, and pay 20 or 30*l.* a year house-rent; and will any one suppose, that 4*l.* a year, which is all that is paid by a hawker or pedlar, who travels with no more than he can carry on his back, or under his arm: I say, will any one suppose, that 4*l.* a year is equal to all the taxes and parish rates paid by a housekeeper in London, who rents a house of 20 or 30*l.* a year?

Then, Sir, as to the supposition, that the trade of our shop-keepers is intercepted and forestalled by our hawkers and pedlars, the hon. gentleman, who spoke last, has himself shewn, that this supposition is well grounded: he says, that the chief cause of the decay of trade among our shopkeepers, proceeds from the late great increase in their number. Pray, Sir, what are hawkers and pedlars? Are not they travelling shopkeepers? Do not

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they open a shop at every man's house they come to? The famous French harlequin, when he ran about upon the stage at Paris, crying 'Who'll buy old almanacks, or new operas?' called himself a running stationer; and may not we as properly call a pedlar a running mercer, linen-draper, or grocer? The only difference between a settled shopkeeper and a pedlar is, that the former pays all public taxes, and in his turn serves all burdensome civil offices; whereas the latter pays no tax, except that upon his own tribe, and serves no burdensome civil office. It is therefore evident, that if the increase of the number of our shop-keepers, be the cause of the decay of their trade, that decay must be augmented by our hawkers and pedlars; and if so, our putting a stop to hawking and pedling would certainly, in some degree, produce a present relief to our settled shop-keepers.

The hon. gentleman told us, Sir, that the present distress of our shop-keepers, so far as it proceeds from their being too numerous, would, in a few years, be remedied by the natural course of things. Why, Sir, I really believe it will, in the same manner as an unfortunate man's distresses are all ended by his being starved to death. For, what with warehouses, auction-rooms, and hawking and pedling, I am apt to think that in a few years we shall hardly have an open shop in the kingdom, except chandlers'-shops, gin-shops, and such like shops as are necessary for the accommodation of the poor, who must often have credit, and cannot furnish themselves with a quantity of any commodity at a time. But as shop-keeping has always supported great numbers of good families amongst us, and contributes both to the increase and beauty of our cities and market-towns, I am for preventing, if possible, such an alteration in the course of our domestic trade; and for this purpose, I think, we ought to embrace the means that appear to be next at hand, and most in our power.

As to the inconveniency that might attend the suppression of hawking and pedling, with respect to families that live in the country, and at any great distance from a market town, it is so inconsiderable that it ought not to be regarded; for all such families must often send to the next market town for provisions, and other things, for the use of the family, and when they send for such things, they may easily commission what small things they want in a pedling way, from some shop-keeper settled in that town. To this I must add, Sir, that if hawking and pedling be a conveniency that is often wanted by such families, it is an unanswerable argument for shewing, that hawking and pedling is very prejudicial to our settled shop-keepers.

Then, Sir, as to the oppression which, it is pretended, our artists, mechanics, or manufacturers may be exposed to, by a combination among shop-keepers, there is not the least ground for any such pretence; because, in our great cities, there is such a number of shop-keepers of all sorts, that no such combination can be safely formed; and if such a combination should be formed, in any little borough, the workman might carry the produce of his labour to the nearest great city, and there dispose of it without danger of any such oppression.

I cannot, therefore, conceive, Sir, how the suppression of hawking and pedling could be attended with any inconvenience to the subject, or any loss to the country in general; and there is nothing more evident, than that it would be attended with an immediate advantage to our settled shop-keepers, because it would, at once, diminish the number of those who now deal in the retail trade. But supposing that our hawkers, pedlars, and petty chapmen, upon their being prevented to deal any longer as such, should all take houses and set up shops in our cities and market towns, even this would be an immediate advantage to those who are now our settled shop-keepers, because the former would then be obliged to contribute their share to all parish rates, and to take their turn in serving all burdensome civil offices, which, of course, would make them fall lighter upon the latter.

Thus, Sir, the putting a stop to hawking and pedling would, in every light, be an advantage to our settled shop-keepers; and, notwithstanding what has been said by the hon. gentleman who spoke last, it would, in my opinion, be an advantage to the public revenue; for, though there may not, perhaps, be any convictions of hawkers dealing in smuggled goods, yet it is certain, that there is no set of men in the kingdom who have such opportunities for disposing of such goods, because of the frequent occasion they have to visit and converse in gentlemen's families, especially in the country; and when they are exposing to view, and perhaps selling the goods they openly deal in, it is easy for them to give a hint, that they have a par-

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cel of tea, French silks, French laces, or such things to dispose of at an under rate; and when they find that such things are wanted, they may return with them that day or the next, without running the risk of carrying them always about with them. These opportunities they certainly have, more than any other sort of people, and this, I believe, is the true reason why few or none of them have been convicted; because, when an officer of the revenue sees a fellow with a burden or bundle upon the road, who is known to be no hawker, pedlar, or petty chapman, he has reason to suspect and search him; but it would be endless to stop and search every pedlar they meet upon the road, and, if they found nothing, they would be exposed to an action; for I know of no law that gives them a power to search a pedlar's burden or pack, unless they have a previous information.

From the nature of things, therefore, and without any particular proofs, we must be convinced, that hawking and pedling furnishes our smugglers with a better opportunity for disposing of their run goods, than they could come at by any other means, and, consequently, that it is the cause of many frauds with respect to the public revenue; and that it is the cause of many frauds being put upon purchasers, is not, I find, denied. I shall grant, that it is not possible for the law to prevent all manner of fraud in the way of buying and selling, and I shall likewise grant, that ignorant purchasers may sometimes be cheated by shop-keepers; but, surely, it must be allowed, that a man who has a settled habitation must be more cautious of putting a gross fraud upon any one, than a man who is here to-day, and gone to-morrow, where no one can find him; and though the law cannot prevent all manner of fraud, yet we have many instances where the law prohibits a practice, innocent in itself, for no other reason, but because it furnishes an opportunity to commit a crime. The act, commonly called the Black Act, is, in this respect, a recent instance: to carry a sword or gun, or to have the face blacked, or to be otherwise disguised is, in itself, perfectly innocent; but because this furnished rogues with an opportunity to commit several crimes, therefore it was made felony, without benefit of clergy, for any man with offensive weapons, to appear in any highway, heath, common, or down, with his face blacked, or being otherwise disguised; and as hawking and pedling furnisheth rogues with an opportunity to commit many and great frauds, I do not think, it would any way injure our retail trade, if that part of the act of the 39th of queen Elizabeth were restored, by which pedlars and petty chapmen wandering abroad, are declared to be vagabonds, and punishable as such.

As to our mechanics or workmen being encouraged by hawkers and pedlars to work up bad materials, or not to finish their work with so much care as they did formerly, if our workmen be, by this means, generally brought into a bad custom, it may have a bad effect as to the character of our productions of art, even in foreign countries; because, in this case, it will be impossible for our merchant exporters to find any quantity of such commodities to export, that are so good and so completely finished as they used to be in former times; so that there is no mystery in supposing, that, by means of our hawkers and pedlars, the character of our productions of art has been lessened in foreign parts, as well as at home.

From all which I think it is plain, Sir, that the suppression of hawking and pedling, and the restoring of queen Elizabeth's law against that practice, would be attended with an advantage to our shopkeepers, an advantage to the public revenue, and an advantage to our productions of art both abroad and at home; and I do not see, that it could be attended with any considerable inconvenience to the subject, or with any interruption to our retail trade. The only disadvantage would be, the loss of that revenue, which arises from the duty upon licences; and that, I think, would be fully made good by the 2*s.* tax proposed upon every shop-keeper. If any minister should propose to ingraft a new project upon this scheme, gentlemen will then be at liberty to oppose that ingraftment.

The Petition was ordered to lie on the table.

*Debate in the Lords on the Claims to the Titles of the Earldom of Stair.**] March 4. Lord Delawarr reported from the lords committees for privileges, to whom was referred the Petition of James styling him-

* Hardwicke Papers. Extract of a Letter from Dr. Birch to the Hon. Philip Yorke, May 7, 1748.

On Wednesday I attended the determination of the Claims of the Earldom of Stair in the

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self earl of Stair, viscount Dalrymple, lord Newlistoun, Stranraer, and Glenluce; also the Petition of William earl of Dumfries; and likewise the Petition of John styling himself earl of Stair, viscount Dalrymple, lord Newliston, Glenluce, and Stranraer; all claiming the said titles, honours, and dignities; presented to his majesty, and by his majesty referred to this House: "That the committee had considered the said Petitions, and heard counsel for the petitioner James; read a patent from her late majesty queen Anne, bearing date the 8th of April 1703, granting the said titles, honours, and dignities, to John then viscount Stair and the heirs male of his body; also a warrant under her said late majesty's royal signature, dated in February 1706-7, upon the resignation of the above mentioned patent, appointing a patent and charter to be passed, granting the said titles, honours, and dignities, to the late earl of Stair, with further limitations; as also the patent itself passed in the same month; and examined a witness, upon oath, to prove the descent from the said earl; and also heard counsel for the petitioner John, and read several charters, inquisitions, retours, and other writings; and likewise heard counsel for the said earl of Dumfries; and also counsel on behalf of the crown: and are of opinion, That the nomination, or appointment, dated the 31st March 1747, made by John late earl of Stair, to his honours and dignities, is not valid in law; and that the petitioner James Dalrymple has a right and title to the honours and dignities of earl of Stair, viscount Dalrymple, lord Newliston, Glenluce, and Stranraer."

Which Report was agreed to by the House.

*Debate in the Lords on the Orphans of London Relief Bill.**] May 10. The

House of Lords. The debate began soon after two and continued till past eight, when the issue was in favour of James Dalrymple, younger brother of the earl of Dumfries. Lord Morton opened the debate in a speech of an hour and twenty minutes, in support of the late earl of Stair's nomination of captain John Dalrymple. He was answered by my Lord Chancellor in a speech of an hour and half, in which he considered the whole extent of the cause with great force, perspicuity, and elegance, and gave his opinion against the nomination, as not founded in any clear precedent, and inconsistent with the dignity and stability of the peerage. Lord Tweedale declared for the nomination, and then lord Morton replied to some points urged by my Lord Chancellor. Lord Findlater spake next against the nomination; and lord Granville for it; but his speech was not one of his best performances. The duke of Argyle was strong and decisive against the nomination, as what could only be maintained upon the foot of custom and precedents; but as these were wanting, the great and important inconveniences that might arise from the allowing it, ought to determine against it. Upon the division, only six voted it; and the next question in favour of James Dalrymple was carried without any contest. Lord Morton, in his first speech, complained in a long but spirited digression of the Scots peerage since the Union being an insupportable burthen, not to be shaken off by a resignation, and yet disabling a man from procuring a fixed seat in the legislature. Lord Tweedale talked likewise in the same strain.

Your brother Charles opened his mouth on Monday in the House of Commons with some success upon the Bill for the Relief of Protestant Purchasers, Trustees, &c. of Papists' Effects, against which he urged such a weight of objections, that the patrons of it, lord Gage and Mr. Fazakerley, abandoned it without any reply, and the committing of it was postponed.

* Hardwicke Papers. Extract of a Letter from Dr. Birch to the Hon. Philip Yorke. May 14, 1743.

On Monday was read a second time the Bill for the Relief of the Orphans; when the bishop of Worcester, in the absence of lord Lonsdale, who is still indisposed, was expected to have opposed it; but being engaged in conversation, while the question was put for committing it, he was obliged to reserve his objections till the next day, when he laid before the House the Report made by some of the aldermen concerning the State of the Orphans' Debt, and pointing out the means of discharging it, without having recourse to parliament, especially as an estate of 13,000*l.* a-year, in the new buildings about Berkeley square, would, in fifteen years time, fall into the city. He arraigned, likewise, the management of the city revenues: in which he was supported by lord Leicester, who spoke with great contempt of the Mansion House as a disgrace to our capital and country. His grace of Newcastle declared for the Bill, without answering any of the objections to it, and complimented the city for their loyalty during the Rebellion. And the question was carried for the Bill by so unequal a division, that the numbers were not taken. On Wednesday it was read the third time and passed, after the Bishop had proposed, that the tax on coals, which was a very severe burthen upon the poor, might be made redeemable by one to be laid on the numerous public houses and places of entertainment, which divert the people from their employments almost every hour of the day as well as night.

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House went into a Committee on the Bill intitled, "An Act for the further Relief of the Orphans and other creditors of the city of London, and for other purposes therein mentioned." After some time, the House was resumed; and the earl of Warwick reported from the said committee, "That they had gone through the Bill, and directed him to report the same to the House without any amendment." Ordered, that the Bill be read the third time to-morrow. Which was accordingly done, and the Bill passed.

*Debate in the Lords on the Bill for disarming the Highlands, and restraining the use of the Highland Dress.**] May 10. The House of Lords went into a Committee on the Bill, intitled, "An Act to amend and enforce so much of an act made in the 19th year of his majesty's reign, as relates to the more effectual Disarming the Highlands in Scotland, and restraining the use of the Highland Dress; and to Masters and Teachers of Private Schools, and Chaplains; and to explain a clause in another act made in the same year, relating to Letters of Orders of Episcopal Ministers in Scotland; and to oblige persons allowed to carry arms, and the directors of the banks there, and certain persons belonging to or practising in, the Courts of Session or Justiciary, to take the oaths; and to repeal some clauses in an act made in the first year of the reign of his late majesty king George the first, whereby certain encouragements are given to landlords and tenants in Scotland, who should continue in their duty and loyalty to his said late majesty."

Upon the Clause "That no Letters of "Orders, not granted by some bishop of "the Church of England or Ireland, shall, "from and after September 29, 1748, be "deemed sufficient to qualify any mi-"nister, of an Episcopal meeting in Scot-"land, whether the same were registered "before or after the first of September, "1746," the following debate took place:

The Bishop of *Oxford* rose and said:†

My lords; the Clause now read to you is of such a nature, that, for the sake of common justice and compassion, as well as for the sake of the religious principles I profess, I think myself obliged to oppose its being passed into a law; and indeed, I wonder how it could be agreed to in the

* From the London Magazine.

† Hardwicke Papers. Extract of a Letter from Dr. Birch to the Hon. Philip Yorke. May 14, 1748.

On Tuesday was committed in the House of Lords the Scots Bill, the Clause in which, inforcing the Bill of 1746, obliging the Episcopal Ministers in Scotland to take the Oaths and register their Orders, but allowing no Orders to be registered, except those given or indorsed by some Bishop of England or Ireland, occasioned a debate, which lasted from four to eight o'clock. The two great points in question were, whether the former act of 1746 was clear and consistent; or whether the new Clause, by way of explanation, did not amount to a new act; and consequently, whether it would not be unjust to disqualify, by this new Clause, those who had taken the Oaths before the 1st of September 1746, upon a supposition founded on a Clause in the former Act, that their Orders, though not given or indorsed by an English or Irish Bishop, were to be admitted to be registered *before* that day, though not *after*.

The Bishop of Oxford began the Debate in a speech of half an hour, expressing great concern for the persons, who might thus be exposed to ruin, after they had given the government a pledge of their fidelity by taking the oaths, though from a principle of generosity they might not be willing to discover those by whom they had been ordained. He urged, that the Act of the 11th of Queen Anne tolerated in Scotland all who had been ordained by Protestant Bishops, which seemed to include the Non-juring Bishops. His lordship disavowed strongly the Pretender's authority in making Bishops, but insinuated, that deprivation did not destroy the episcopal character; and declared, that the Protestant Bishops, deprived by the Popish queen Mary, remained still Bishops, and that the present bench would still have continued so, if the Pretender had succeeded and deprived them. He insisted likewise upon several difficulties which would attend the English and Irish bishops ordination of ministers for Scotland.

My Lord Chancellor answered him in an incomparable speech of three quarters of an hour long, in which he observed, that the Clause in question did not touch upon, much less determine the point of the validity or invalidity of Orders given by Non-juring Bishops, but regarded only the safety of the public, by restraining the exercise of functions derived from an authority destructive of our constitution both in Church and State: That he could not but give it as his opinion as a lawyer, that the authority of the whole legislature, of which the Spiritual Lords are part, was of equal force with the sentence of an Ecclesiastical Court, in depriving a bishop, and rendering all his future acts nullities: That the king is the head of the Church; and consequently the exercise of Episcopal authority must flow from

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House of Commons by any gentleman who had a regard for the Church of England, for the good of his country, or for the security of the illustrious family we have now the happiness to have upon our throne. In order to make good what I say, I must examine the state of religion in Scotland at the time of, and ever since the Revolution. At that time, my lords, we know, that what they call in Scotland the Episcopal Church, and what we call here the Church of England, was the religion established in that kingdom. They had not, it is true, embraced our liturgy, but in all other points the religion was the same in both kingdoms, and happy would it have been for both, had they still continued to be the same. But the clergymen of the Church of Scotland adhered so superstitiously and so erroneously to the principle of passive obedience and non-resistance, that very few of them could be prevailed on to declare against the late king James, notwithstanding the open and violent attacks he had made upon the religion they professed. On the other hand, the Presbyterians, who were very numerous in the southern parts of Scotland, and who had been most cruelly persecuted during the two former reigns, declared unanimously in favour of the Revolution, which procured and indeed entitled them to the countenance of the new government, that

him: and that it is high treason for another set of men to pretend to the character of Bishops, by an authority derived from a Pretender to his majesty's title; and therefore of dangerous consequence to give the least countenance to such an authority by allowing their Acts: That the Episcopal Clergy of Scotland had, ever since the Act of the 11th of Queen Anne, exercised their functions, without qualifying themselves according to that Act; and had been the constant promoters of disloyalty and rebellion: That the few, who had lately taken the Oaths, were justly to be questioned as to their sincerity, having done it with so ill a grace, and in such necessitous circumstances; and therefore were not to be considered, as they were not entitled to the benefit of the Act of 1746, which clearly required, that no Orders should be allowed but from some bishop of England and Ireland; and the new Clause was intended only to enforce the execution of that Act, which had been endeavoured to be eluded by an Opinion of some (I think only two) lawyers, who had been consulted by the Episcopal Clergy, and were of known affections to their party.

Lord Sandys opposed the new Clause, as giving a new sense to the former Act, and consequently an hardship upon those ministers who had been induced to take the Oaths upon that act; and spoke of this as a direct persecution of them on account of their conscience.—The bishop of Salisbury urged the same topic, and insisted upon the difficulties of ordaining ministers for Scotland by the English and Irish bishops.

The dukes of Argyle and Newcastle were zealous for the Clause. Lord Morton took notice of an expression that had been used, of "the Episcopal Church of Scotland," which he denied to exist; and observed, what different senses the words "Church" and "Bishop" had undergone, especially the latter: upon which topic he raised some mirth in the House by referring to some Greek verses relating to the education of Hercules, in which he is said, among other things, to have been taught to be a Bishop, that is, to keep a sharp eye at the mark in shooting.

Upon the division, the Clause was rejected by a Majority of 32 against 28. With the former were 20 Bishops, that is, the whole bench, except Durham, Winchester, Litchfield, Chester, Carlisle, and Hereford, who were absent. The Lay Lords on that side were Bath, Gower, Sandys, Oxford, Arran, Litchfield, Shaftesbury, Cholmondeley, North, Feversham, Ward, and Murray.

On Wednesday the Clause was restored upon the report of the Bill, by a division, whether the House should agree with their Committee, the Majority being 37 against 32. The archbishop of York, and the bishops of Salisbury and Bath and Wells were then absent. Lord Delawar spake first for the Clause; and was answered by the bishop of Lincoln. After him rose the duke of Newcastle, who was answered by lord Sandys. Lord Findlater replied, and lord Bath rejoined; which called up my Lord Chancellor, who avoided touching upon any of the topics, which he had used the day before, and which stood unanswered, but expressed his apprehensions of the dangerous wound, which would be given to his majesty's right and title, and to our present constitution, if that House should shew the least tenderness for any authority temporal or spiritual, set up in opposition to them; or admit of the mere taking the Oaths to be a sufficient qualification to act under a commission, or exercise functions, derived from such an authority. Lord Bath said a few words in reply; as likewise the bishop of Oxford about the promise of canonical obedience at ordination.

I am afraid I have tired you with the Recapitulation of the Debate, which has carried me to a much greater length than I intended or imagined. The subject of it has rendered our bishops extremely popular, and by the art of misrepresentation raised a great clamour against the ministry as enemies to Episcopacy itself, though they declared their utmost readiness to concur with the bishops in any Bill for the supporting in Scotland all the Episcopalians who would become subjects.



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had been established here in England. Thus, my lords, by the obstinacy of the former, and the hearty zeal of the latter, the Episcopal religion came to be abolished, and the Presbyterian religion established in Scotland; and the Presbyterians were, by the persecution they had met with, so invenomed against the episcopal party there, that they prevented any act of toleration in favour of episcopacy in Scotland, till the 10th of queen Anne, when an act for that purpose was passed by the British parliament.

By this rough usage, my lords, the episcopal party in Scotland were hardened in their obstinacy, so that all their bishops and most of their clergymen refused to conform, or to take the oaths to the government. However, by degrees they set up private meetings in most parts of Scotland, which were winked at by the Presbyterian clergy there, not out of favour, but out of fear, lest by making too rigorous an use of their power, they should provoke the parliament to grant a toleration to episcopacy; wisely judging, that they had not so much to fear from the private meetings kept by nonjuring clergymen, as they would have from the public meetings kept by episcopal clergymen, duly qualified according to law; so that before the year 1712, there was not so much as one episcopal meeting in Scotland, but what was kept by a nonjuring clergyman; and to supply those episcopal meetings, as well as to preserve the Episcopal Church in Scotland, the bishops who were outed of their temporalities at the Revolution, not only conferred orders, but consecrated bishops in the room of those that died; for surely the episcopal party in Scotland have as much a right and a power to both the one and the other, as the primitive Christians had, before their religion came to be the established religion of any country: and if they would profess and practise the same submission to the civil government, I should think them equally entitled to protection and indulgence.

But, my lords, as the nonjuring episcopal clergy in Scotland not only profess, but preach and propagate principles of rebellion against the established government, they never deserved protection, and indeed ought never to have met with any indulgence or connivance. This, however, could never be a reason for the utter extinction of episcopacy in that kingdom, at least with those who thought it the only true religion; and for this reason, in 1712, an act was passed for tolerating all episcopal meetings in Scotland, where divine worship was performed by pastors ordained by Protestant bishops, and who had taken the oaths of allegiance and abjuration, and should pray for the queen and royal family. This produced a great alteration in the state of episcopacy in Scotland; for from that time several episcopal meetings began to be set up by clergymen duly qualified according to law; and the liturgy of the Church of England began to be made use of, not only by these qualified clergymen, but also by many of the nonjuring clergymen, as it is now, according to my information, in most of the episcopal meetings in Scotland.

In this state, my lords, episcopacy continued in Scotland, till 1746: and as the act I have mentioned, required only, that the officiating pastors should be such as had received holy orders from a Protestant bishop, many of the episcopal clergy got themselves ordained by the bishops who had been outed of their temporalities at the Revolution, or by those who have since been consecrated bishops by them, because there were no other bishops in Scotland, to whom they could apply for orders; and in fact there are, I believe, very few episcopal clergymen in Scotland, who have not received their orders from such bishops; so that to exclude all such from officiating in any episcopal meeting in that country, will in effect be the same with a law for prohibiting any such meeting, which this House would not, I am sure, agree to.

I shall next observe, my lords, that notwithstanding the toleration act I have mentioned, and notwithstanding the many years it has been in force, yet still there continued to be a great many episcopal meetings in Scotland, in which divine worship was performed by nonjuring clergymen; and though such meetings were expressly prohibited by the toleration act, they were connived at by the Presbyterian government in Scotland, for the reason I have already assigned; but the rebellion brought us into such danger, and that danger approached so near to our own doors, that it made us a little more attentive to the state of religious as well as civil affairs in Scotland, than we had ever been before; and it being very reasonably supposed, that the rebellion was in a great measure owing to the rebellious principles that had been propagated among the people of Scotland, by this sort of episcopal meetings, an act was passed in 1746, for



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shutting up all such meetings, and for preventing the opening of such in any time to come, by which act a register was ordered to be kept of all the episcopal meetings in Scotland; and it was provided, that the pastor or minister of any episcopal congregation in Scotland should, on or before September 1, 1746, produce to the clerk of the shire or borough, where his meeting-house was situated, a certificate from the proper officer, of his having qualified himself by taking the oaths appointed by law, of which certificate an entry was ordered to be made in the said register.

Now, my lords, by this act you gave an opportunity to, and consequently invited, all ministers of episcopal congregations, who had not before qualified, to come in and take the oaths appointed by law, without distinction, whether they had received their orders from a nonjuring Protestant bishop in Scotland, or from a bishop of the Church of England or Ireland: and upon this invitation I am told, that several of the episcopal ministers, who had received orders from the nonjuring Protestant bishops in Scotland, did accordingly take the oaths and register their meetings, in hopes that for the future they should be entitled to exercise their functions, and thereby support themselves and families, without let or disturbance. But what are you now to do with this clause? These poor men have probably disobliged some of their best friends, and rendered themselves obnoxious to their whole party, by accepting of your invitation; and now, by a law *ex post facto*, you are to deprive them of the only means of subsistence they have left. Would not this be unjust, would it not be cruel? Besides, my lords, it would in my opinion, be imprudent: every government ought to endeavour to establish a trust and confidence in all its acts and regulations; but if we thus undo what we have done but a year or two before, and thereby expose private men to great losses and sufferings, no man will for the future put any trust or confidence in our acts or regulations, or in the justice of our proceedings.

After what I have said, my lords, I think, I need not observe, that the Clause now under our consideration really seems to be an encroachment upon the Christian religion, as professed by the Church of England. It seems, in my opinion, to arrogate to the civil authority a power to determine, whether a priest has been duly and regularly ordained, or a bishop consecrated, which is a question no true member of the Church of England will allow the civil authority to have any thing to do with. It is the Church only that can determine this question; and if the Church determines, that a priest has been duly and regularly ordained, he ought not by any civil authority to be debarred the exercise of his function, provided he conforms in every other respect to the laws of his country.

This, my lords, is an argument that will, I am confident, have great weight with all those upon the same bench with me; but it is an argument we have not in this case any occasion for, because the injustice and cruelty of this clause, with respect to the poor men who have conformed, in pursuance of the invitation given them but two years ago by act of parliament, is so manifest and glaring, that compassion must prevail, if justice should fail, to persuade us to reject the clause; and where both compassion and justice solicit, the good of our country and the security of our sovereign require of us a compliance; for which reason I shall take the liberty to move, That this clause be left out of the Bill.

Lord Chancellor *Hardwicke*:

My lords; I am surprized how this short clause could give offence to any one so much attached to our present royal family, as the reverend prelate who spoke last is known to be, and I shall be sorry to find, that it is any way misunderstood by those upon the same bench with him. I hope I am as much influenced in all my determinations by justice and compassion as any man in the kingdom; but I must think it a little incongruous to talk in this House of justice and compassion to those who have for many years been the trumpeters of disaffection to our present happy establishment, and have so lately stirred up a most dangerous rebellion against it. Upon evident signs of repentance, they may become objects of compassion, but I am sure, they can never deserve to be entrusted with the office of instructing the people in any corner of the kingdom; for the late rebellion is a proof, that the most dangerous rebellion may take its rise in one of the remotest, as well as one of the smallest and least populous corners of this island; and therefore, what Virgil says of Fame may properly enough be applied to rebellion,

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Mobilitate viget, viresque acquirit eundo;
Parva metu primo: mox sese attollit in auras,
——et magnas territat urbes.

Education, my lords, and the principles sucked in from our first tutors and instructors, have such an insuperable influence upon the future conduct of most men, that it is extremely dangerous for a government to allow any disaffected person to be an instructor of the people; and as every man who has taken orders from a nonjuring bishop, either in England or Scotland, must be supposed to be disaffected to our present happy establishment, I think, the government ought not to allow them to be preachers in any congregation whatever: nay, for what we know, they must, at the time of receiving orders from such bishops, enter into such engagements, or subscribe to such articles of faith as are inconsistent with our present establishment. For this reason, when the law was passed in 1746, for preventing ministers from officiating in episcopal meeting-houses in Scotland, without duly qualifying themselves according to law, it was not supposed, that any such ministers as had received orders from nonjuring Protestant bishops would take the oaths to the government, and I do not know that any of them have. At least this I know, that if any have, they are very few in number; for from the list upon our table it appears, that in all Scotland there were but six episcopal ministers that took the oaths in pursuance of that act; but whether all or any of these six were such as had received orders from those who call themselves bishops in Scotland, does not appear.

Now, my lords, if no one of these six received orders from a nonjuring bishop, none of them can suffer by the Clause now under our consideration; and if any one of them did, I think, we ought, for the sake of religion, to prevent any such man being a preacher of the gospel, because his hearers must all suppose, that he has taken oaths contrary to his conscience, and to those engagements he entered into when he received holy orders, which of course must bring religion itself into contempt among the vulgar. But supposing the whole six to be such as had their holy orders from nonjuring bishops, the number is so small, that to their case we may very properly apply the law maxim, 'De minimis non curat lex;' and on the other hand, the danger of allowing them to be the instructors of the people is so great, that it would be very imprudent in the legislature to suffer it; for though in their public sermons they may, nay must avoid inculcating any doctrines that are inconsistent with our present happy establishment, yet in their private lectures they may, and probably will, inculcate such doctrines, and their being the pastor or minister of the congregation will give weight to the arguments they make use of, as well as furnish them with many opportunities for advancing and enforcing their doctrines.

When noble lords talk of compassion and cruelty, they should consider who are the most worthy objects of our compassion, who are the most deserving of our severity, for as to cruelty, I hope, none of the proceedings of this House will ever deserve that name, and there is a certain set of people amongst us, against whom no severity can be called cruelty. When I say this, I hope, no noble lord will suppose, I mean those conscientious nonjurors, who from a principle of conscience never could, nor never did take the oaths to the government. When such men actually do engage in a rebellion, I think they deserve as much compassion as is consistent with the public safety; and while they remain quiet, without atttempting to propagate their principles, they will always, I hope, by the lenity of our government, be protected as to their lives, liberties, and properties. But the set of people I mean, are those who, notwithstanding their being Jacobites in their hearts, not only take all the oaths we can impose, but worm themselves into places of trust and confidence under the present government, and yet join in, or are ready to join in, any rebellion against it; and with respect to such men, I must say, that no regulation we can make, no punishment we can inflict, can be called cruel and unjust.

Let us consider, my lords, what we owe to those who are his majesty's well affected and zealous subjects; surely, they are the most worthy objects of our compassion as well as our care. Let us consider what they suffer by every rebellion raised against the established government, what insults, what injuries must not such of them suffer, as live in any corner where the rebels get the command? What a monstrous expence are all the rest of his majesty's faithful subjects exposed to? What a danger, as well as loss, is the nation exposed to by every rebellion, that can happen? I believe, my lords, I may

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aver, that besides the losses and injuries suffered by private men, the last Rebellion cost the nation at least two millions sterling; and what was still worse, I believe that Rebellion was the cause of all the misfortunes, that both we and our allies have since suffered abroad. If the royal youth, who was never to seek when fresh orders were wanted in the day of battle, if the British troops, who advance with 'ferocity' (as their enemies are pleased to call it) had been in the Netherlands in the year 1746, and present at the battle of Roucoux, the war would then probably have taken a very different turn, and we should now have been enjoying the plentiful fruits of a glorious and advantageous peace: but both of them were then employed in extinguishing the remains of that Rebellion, which had twice triumphed over our armies, and brought our capital into the most imminent danger.

I am, therefore, astonished, my lords, to hear any regulation called cruelty, that may tend towards preventing such a rebellion for the future; and to prevent those wolves in sheep's clothing. I mean the qualifying Jacobite clergymen, from being the pastors or ministers of any congregation in England or Scotland, is certainly a very proper regulation for this purpose. What is the form of ordination among those who call themselves nonjuring bishops, or what confessions, promises, or vows they exact from the persons they ordain, I am quite ignorant of; but it is highly probable, that they exact such as are absolutely inconsistent with our present happy establishment, therefore, I must suppose, that no man will be ordained by any of them, who is not a Jacobite in his heart; and an exclusion of all such men from the exercise of their function, in any part of his majesty's dominions, is, I think, absolutely necessary, and was, or at least ought to have been, intended by the Bill passed two years ago.

As to the encroachment pretended to be made by this Clause upon the rights or privileges of the Christian Church, as established in this kingdom, I do not pretend, my lords, to be so good a judge in that affair, as the reverend prelate who spoke last; but so far as I am master of the subject, I cannot conceive what the rights or privileges of the Christian Church have to do in this question. We do not, by this Clause, pretend to annul the holy orders granted by a nonjuring bishop, nor do we pretend that the civil authority has any power to determine, whether a priest has been duly and regularly ordained, or a bishop consecrated; but surely, the civil authority of every society has a power to determine, who shall be allowed to exercise the office of priest or bishop within that society; and this is all we take upon us to determine by the Clause now under our consideration; but really, so far as I can understand the Church Establishment in this kingdom, I do not see how any man can be consecrated a bishop, without the authority of the king, who is head of the Church, as is acknowledged universally, I think, by the Church of England, though the Presbyterians, I believe, could never yet be brought to any such formal acknowledgment. In this kingdom, and I believe it was the same in Scotland, no priest can be consecrated a bishop till he be chosen, and he cannot duly and regularly be chosen without the king's *congé d' elire*? From whom have these nonjuring clergymen their *congé d' elires*? Not from the Pretender, I hope: it would be high treason in them to make use of any such authority. Therefore, I must conclude, that after the death of all those who had been chosen and consecrated bishops in Scotland before the Revolution, no man could pretend to be a bishop there, without acknowledging the Pretender as the only lawful sovereign of these kingdoms; and whoever accepts of holy orders from such a bishop, does thereby tacitly acknowledge the same thing, and, consequently, is not a person, or if you will, a priest, fit for being the pastor or minister of any congregation in the British dominions.

Having thus shewn, my lords, that there is nothing in this Clause repugnant to the principles of the Church of England, nothing that is severe against any but such as deserve to be treated with severity, nothing but what is necessary for securing the peace and quiet of these kingdoms, I hope it will be left standing a part of the Bill now under our consideration.

Lord *Sandys*:

My lords; the learned lord who spoke last, was surprized at the opposition made to this Clause, and I am surprized at the doctrine he seemed to advance in support of it. According to his doctrine, it seems, that if a man has had the misfortune to be educated in false principles of religion or government, or

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any way led into an erroneous opinion, we are never to allow him to alter his opinion and embrace the truth, or never to put any trust or confidence in him, if he does. If this doctrine had prevailed, my lords, I am certain, that neither the Christian nor the Protestant Religion could ever have been established, and, I believe, the late Revolution would have stood a very bad chance; but it is so contrary to common sense, to the practice of all ages, and to the express precepts of Christianity, that, I hope, it will never be allowed to have any weight in this House. So far from admitting of this as a good doctrine, I hope we shall always lay it down as a rule for our conduct, to encourage men to alter their opinions, and to embrace those which we think the only true and right principles of religion and government; and when any such men appear to have a superior capacity for serving their country, I hope they will be employed, and even preferred to men of less abilities, who never had the misfortune to be led into erroneous opinions. This was the rule observed by king William in every part of his conduct; and without this he never could have been able to have established his government in Holland, much less to establish the Revolution, which he had happily introduced in this country.

I shall grant, my lords, that in all countries the government ought to be as careful as possible to prevent the people from being educated and brought up in wrong principles of religion or government; but without a court of inquisition, and a very severe one too, it is impossible to prevent this misfortune. Such a preventive remedy, I hope we shall never in this country have recourse to; therefore, we must have recourse to some healing remedy, and the most effectual one I know, is to encourage men to forsake their false opinions, by shewing them that we are not only ready to receive them into our communion, but to put as much trust in them as in any other part of the people.

It was, my lords, upon this principle, that the law was passed in 1746, for obliging the ministers of episcopal meetings in Scotland to qualify themselves according to law. It was at that time well known, that many of those ministers were such as had received their holy orders from the non-juring bishops in Scotland, and it was so far from being the intention of parliament to exclude them from the benefit of that law, that they were not thereby so much as obliged to present their letters of orders to the justices of the peace in their quarter sessions, to be there registered, which they were obliged to do by the toleration act of the 10th of queen Anne. This, it was known, would have laid them under an insuperable difficulty, because it would have obliged them in some measure to become informers against those, who assume the character of bishops in Scotland, and who, perhaps, upon that information, might have been prosecuted for so doing. For this reason, it was by that law provided, that such episcopal ministers in Scotland as had a mind to qualify, should only produce to the clerk of the shire, stewartry, or borough where their meeting-house was situated, a certificate from the proper officer, of his having qualified himself by taking the oaths to his majesty appointed by law: and if he did this before September 1, then next following, the clerk was obliged to enter his certificate and to register his meeting-house, by which he was entitled to continue to hold, and officiate in that meeting, upon condition of his praying for his majesty and the royal family, in the same form and words as contained in the liturgy of the Church of England.

It is therefore very evident, my lords, that the intention of that law, was to give an opportunity, even to those episcopal ministers, who had received holy orders from the non-juring bishops in Scotland, to qualify themselves according to law, and thereby acquire a right to hold and officiate in their meeting-houses, upon the condition I have mentioned; and that this was the intention, is confirmed by another clause in the same law; for though it was proper to grant an indulgence to such ministers as had, before that time, received holy orders from the non-juring bishops, yet it was thought improper to continue the practice; and therefore, to put an end to the practice of receiving holy orders from any such bishops, it was enacted, That after the said September 1, no letters of orders of any pastor or minister of any episcopal meeting or congregation in Scotland, shall be deemed sufficient, or be admitted to be registered, but such as had been given by some bishop of the Church of England or Ireland.

Thus, my lords, the intention of that law is extremely plain: it was founded upon that wise, that Christian principle, of receiving into our bosom all such as are

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willing to forsake their evil ways, and give up their erroneous principles. I am sorry to find, the law has had so little effect: I am sorry to hear, that so few of the non-juring episcopal ministers have taken the benefit of that law; but is this a reason for using those ill that have? On the contrary, we ought to treat them with the more kindness; whereas, by the Clause now before us we are to treat them with injustice. I know as little as the learned lord who spoke last, whether all or any of the six, who have taken the benefit of that law, be such as received their letters of orders from non-juring bishops in Scotland: but if none of them did, we have no occasion for such a clause; because if there be any danger in allowing persons to receive holy orders from such bishops, it is already provided against by the clause I have mentioned in the former law; and if any one of these six did receive his letters of orders from a non-juring bishop in Scotland, what are we going to do by this Clause? Why, my lords, I must say, that, in my opinion, we are going to commit a robbery upon him: his meeting-house is his freehold, and his officiating there is an office by which he is to maintain himself and family, both which he has acquired a right to, and that right is founded upon a law of our own making. Shall we rob him of this right without any necessity? If there were a necessity, would it be just to deprive him of a right so solemnly acquired, without making him any compensation?

The learned lord told us, 'De minimis non curat lex:' but, I hope, he will allow, that, 'de minima injustitia curat lex;' and this maxim has always been most religiously observed in this country, with respect to the making of laws. If the public good makes it necessary to take any man's property or office from him, the legislature has always provided for him an adequate compensation. Therefore, if it should be thought, that the public safety makes it necessary to shut up the meeting-houses of these six episcopal ministers, or any of them, the public ought to make them satisfaction; but I cannot conceive how the public safety can make any such thing necessary. It is said, that though they cannot openly preach up rebellious principles in their public sermons, they may secretly inculcate such principles in their private lectures: but their having qualified, is to me a proof, that they never will do so: in charity we are bound to believe, that they are now resolved to inculcate that Christian doctrine of submission to those placed in authority over us; and supposing they should behave otherwise, their arguments could have no great weight; but by treating them in the manner now proposed, what a weight shall we give to the arguments of those episcopal ministers in Scotland, who still continue obstinate? Their meeting-houses you have, it is true, shut up by the law past two years ago, but you cannot shut up their mouths, and in all places where they can open them, they will with too much justice set forth the hardship you have put upon their complying brethren.

My lords; the public is so little concerned, whether these six episcopal ministers continue to preach in their meeting-houses or no, that I cannot but suspect some motive for inserting such a clause in this Bill, that is not publicly avowed; and if it did not proceed from a private resentment, or personal pique to some of these men, I can suggest no other but a designed attack upon the Church of England in general; and what was said by the reverend prelate who spoke first, makes me believe that this is really the case. In answer to him it was said, that we are not by this clause to determine the question, whether a person be duly and regularly ordained, or a bishop consecrated; we are only to determine whether or no he shall be allowed to officiate, which, it is pretended, the civil authority has a power to do; but, my lords, I must insist, that when we have no other objection against a man's being allowed to officiate, but the method or manner of his ordination, it is in effect a determination, that he has not been duly and regularly ordained; and if the Church has the sole power of judging in all questions relating to ordination, I must look upon this Clause as an encroachment upon the rights of the Church.

As to the other question, my lords, whether there can be now any such person as a Protestant bishop in Scotland, it is likewise, I think, a question that can come properly before a Church judicature only. I shall readily grant, that in this country no man can now, as a bishop, be invested with any legal authority, without the king's *congé d'elire*; but there were certainly bishops in the Christian Church long before there was any thing like a *congé d'elire*, or any authority from the supreme power in the country, to chuse a bishop; and therefore I must suppose, that

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when the Christians in any country cannot have such an authority, they may without any such chuse for themselves a bishop or bishops. Suppose that, at the time of the Revolution, the clergy of the Church of England had adhered as obstinately to their principle of passive obedience and non-resistance, as the clergy of the Church of Scotland did, and that in consequence thereof, the Church of England had undergone the same fate with her sister Church in Scotland; could not the Church party in England have fallen upon a method for continuing their succession of bishops, without having an authority from the king for so doing? Nay, would not they, by the tenets of their religion, have been bound in conscience to do so? And would it not have been persecution to have punished them solely for doing so? I shall grant, that it would have been high treason to have applied to the abdicated king for his *congé d'elire*, or to have made use of his authority for any such choice; but I cannot think, they would have been guilty of any crime, nor do I believe, that king William would have subjected them to any punishment, had they chosen for themselves bishops in the room of those deceased, after the same manner that bishops were chosen by the primitive Christians, before Christianity came to be the established religion of any kingdom or commonwealth.

My lords; how the succession of bishops has been continued in Scotland, or whether it has been continued from the Revolution down to this time, is what I do not know; but if it has been continued after the manner of the primitive Christians, and without any treasonable application to the late king James, or present Pretender, we can have no reason to exclude from the pastoral office even those, who have been ordained by the Protestant bishops in Scotland; and I must think, that this affair should have been a little more enquired into, before we agreed to that clause in the former law, which declares all letters of orders insufficient, unless given by some bishop of the Church of England or Ireland; for I foresee, that it will by that clause be very difficult to supply the episcopal congregations in Scotland with ministers, because of the great expence and trouble of coming from the north parts of Scotland to England, to receive orders. For this reason, I heartily wish, that a great many more of the episcopal ministers in Scotland had come in and qualified; and for this reason, as well as a great many others, I think, we ought not now to reject the assistance of those that have; therefore, I hope, this unnecessary Clause will be left out of the Bill.

The Duke of *Argyle*:

My lords; although I know that this was the day appointed for our going into a committee upon the Bill now before us, yet I so little expected any opposition to the Bill, or to any clause contained in it, that I gave myself very little trouble to examine it. Upon the first and second reading, I considered it so far as to conclude in general, that it was a right and a necessary Bill; and as I could not suggest to myself any material objection against it, I cannot pretend to be fully prepared for answering the objections now made; but they are, in my opinion, so superficial, that without any deep learning, or previous consideration, they may, I think, be fully answered.

What was the intention of the legislature, when the law was made in 1746, for preventing nonjuring ministers to officiate in episcopal meetings in Scotland, we need not, I think, give ourselves the trouble to enquire, because there is a law superior to all human laws, I mean the law of self-preservation, which will justify our agreeing to what is proposed by the Clause now under our consideration. This law must surely be allowed to operate as strongly upon an established government as upon any private man; and as it is absolutely necessary for the preservation of our present happy establishment, to exclude Jacobites from being the teachers and leaders of the vulgar, it will be an excuse for any seeming cruelty this Clause may be attended with.

Some noble lords may, perhaps, think, that the opinions of the vulgar and ignorant are not much to be regarded, and that their way of thinking can be of no signification to a government established by law, and supported by a regular army; but as the vulgar and ignorant in all countries compose the majority, and indeed the strength of the people, experience must convince us, that those opinions, which generally prevail among them, have always at last come to be the established opinions of the country; therefore every government ought to take special care, that no opinions shall be propagated among the vulgar, which are inconsistent with its preservation; and what has lately

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happened in a neighbouring country must confirm this observation. In the united provinces their late government was established by law, and established upon the principles of liberty, executed by magistrates duly chosen and supported by a regular army. By degrees some opinions were propagated among the vulgar to the prejudice of their then form of government; whether those opinions were well founded, I shall not take upon me to determine; but as they happened to be confirmed by the misfortunes of the present war, their government was subverted, and a new form of government established, by the mere strength of the mob, and without their army's so much as attempting to interpose, though a great part of that army was composed of foreign mercenaries, who in all countries are more ready to execute the orders of the magistrate against an insurrection of the people, than an army composed of natural-born subjects.

My lords, this remarkable and late event must, I say, convince us, how dangerous it is to suffer any opinions to be propagated among the vulgar, which are inconsistent with our present happy establishment; and when we have this danger so full in our view, shall we be accused of cruelty, or a want of compassion, for taking the most effectual method to prevent those from being the teachers and leaders of the vulgar and ignorant, who have been for many years inculcating such opinions, and who will, probably, notwithstanding the oaths they have taken, continue to inculcate such opinions? In saying this, I know I am liable to be accused of a want of charity, by those who are not acquainted with the principles and practices of the episcopal party in Scotland; but when I inform them, that a majority of that party have been nonjurors ever since the Revolution, and that all those who have been made bishops there since that time, have been chosen and consecrated, not according to the method observed among the primitive Christians, but by virtue of a *congé d' elire* solicited and obtained from the late king James, or present Pretender, I hope this accusation will vanish; for a man who submits to receive holy orders from such a bishop, must be in his heart a Jacobite; and while in virtue of those orders he continues to preach, he must look upon himself as obliged to propagate the principles of Jacobitism as far as the lenity of our laws will enable him to do: and though this cannot be done openly and in direct terms, yet the lenity of our law is such, that even in their public sermons they may indirectly propagate such principles, and upon any prosecution, the proof required by law is so difficult, that a man may privately inculcate such principles, and continue the practice during his whole life, without ever once rendering himself liable to a conviction; so that the only course we can take for putting a stop to the propagation of such principles, is to prevent those who are tainted with them, from having an opportunity to gain a credit and an authority among the vulgar.

For this reason, my lords, if I had a sufficient ground for believing, that in the year 1746, the intention of the legislature, was, to give an opportunity, even to those episcopal ministers, who had received holy orders from the nonjuring bishops in Scotland, to qualify themselves according to law; and if I knew, that 600 instead of six such ministers had embraced that opportunity, I should nevertheless be for agreeing to the Clause now before us; but when a law expressed in such general terms is agreed to, it is impossible to tell what was the intention of the legislature at the time the law was passed. Where a legislature consists of a great number of members, some may have one intention, some another; but, I believe, very few, if any had the intention now presumed. For my own part, I can freely declare, I had no such intention; nor could I have any such intention, because I was then and am still of opinion, that no episcopal minister, who received holy orders from any of the nonjuring bishops in Scotland, could entitle himself to continue to preach in any meeting house in Scotland, by taking the oaths appointed by law, in pursuance of that act, because by a clause in that act it is expressly declared, That in case any letters of orders, other than such as have been given by some bishop of the Church of England or Ireland, shall be registered, such registration shall be deemed null and void to all intents and purposes; but as the lawyers in Scotland, like the lawyers in other countries, often find out a meaning in the words of a law, which the lawgiver never intended, they found, that the nullifying part of this clause related to such letters of orders only as should be registered after September 1 following; though it is evident from the words of the clause, that it was intended to rectify the law of



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the 10th of queen Anne, by enacting, That from and after the said September 1, no letters of orders should be deemed sufficient, though granted by a Protestant bishop, unless he was a bishop of the Church of England or Ireland.

Thus, my lords, a doubt has been raised among the lawyers in Scotland, about the meaning of the act passed in 1746; and to remove that doubt, is the only design of the Clause now under our consideration. We are not by this Clause to make any new regulation: we are only to explain and enforce a regulation passed two years ago, a regulation then agreed to without any opposition, and a regulation, which I think absolutely necessary. Whether the letters of orders granted by a non-juring bishop in Scotland or England, be such as may entitle the person so ordained to be a priest or deacon of the established Church in England, or the tolerated church of Scotland, upon his taking the oaths appointed by law, and without any new ordination, is a question we are not now to determine; nor are we to determine whether, as members of this House, we have a right to determine such a question; but surely, we may determine whether such a priest or deacon shall be allowed to exercise his function within his majesty's dominions; and we ought, I think, to determine that he shall not.

This question, it is true, my lords, was otherwise determined in 1712, by both Houses of Parliament, when the law was passed for granting a toleration to those of the episcopal communion in Scotland; but we all know the complexion of that parliament. We know that many of the members secretly approved, though they did not openly avow, the principles of the non-jurors; therefore we cannot wonder at their admitting a priest or deacon to exercise his function, notwithstanding his having received orders from a non-juring bishop; but even that parliament could not be prevailed on to do so in direct and explicit terms, therefore the zealots of that party were forced to rest satisfied with getting it enacted in general, that the toleration should extend to all episcopal ministers 'ordained by Protestant bishops,' that should take the oaths appointed by law, and pray for the queen and royal family. This, indeed, opened a door to all the episcopal ministers in Scotland, who had received orders from the non-juring bishops; but it soon appeared how little they deserved the indulgence they met with, for not so much as one of them embraced the favour offered them, so that the English gentlemen who had got places in the exchequer, the customs, and the excise in Scotland, were forced to get a minister from England, to set up a meeting-house for them at Edinburgh.

My lords; I do not say this, with a design to raise any new resentment against the episcopal party in Scotland: for though I am, and have always professed myself a Presbyterian, I am for indulging that party as far as may be consistent with the safety of our happy establishment; and I know that most of the Presbyterians in Scotland are in this respect of the same sentiments with me; therefore I must say, that it was not very charitable to suppose, that their connivance at the non-juring episcopal meetings in Scotland was not owing to their good nature, but to a political consideration, because they could not have so much to fear from the non-juring episcopal clergy, as they might soon have from an episcopal clergy, tolerated in Scotland, and qualified according to law. My lords, the Presbyterians in Scotland have nothing to fear from either; from the non-juring episcopal clergy they have nothing to fear, as long as our present illustrious family remains upon the throne, and if any Revolution, or what the Jacobites call a restoration, should happen, they would be proud of being involved in the general ruin. From the qualified episcopal clergy they fear nothing, because the Presbyterian clergy in Scotland have by their piety, humility, temperance, and diligent performance of their duty, so well secured to themselves the respect as well as affections of the people, that their rivals can make but few converts; and the Presbyterian Church government is so solemnly secured by the Articles of Union, that the episcopal clergy, though duly qualified, can never expect any partial favour from the government.

My lords; I shall admit that at the time of the Revolution, the episcopal party in Scotland were treated with a little too much severity; but this we cannot be surprised at, when we consider how cruelly the Presbyterians had been persecuted for 20 years before; and yet they were so far from retaliating the persecutions they had met with, that many of the episcopal ministers were allowed to continue in possession of their livings, and in the exercise of their functions, without requiring any thing more of them than taking the oath



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of allegiance to king William and queen Mary; and in 1695, an act of parliament was passed in Scotland for securing to them this indulgence during their respective lives.

It cannot, therefore, be said, my lords, that episcopacy met with no sort of legal indulgence in Scotland till the 10th of the late queen; for many of those episcopal ministers were alive and in possession of their livings at that time; and in other places, though episcopal meetings were not till then tolerated by law, yet great numbers of them were publicly kept, and connived at by the Presbyterian government in Scotland, which connivance could proceed from no motive but good nature and Christian-like forgiveness: and from the same motive this connivance was continued after the toleration act was passed, otherwise the episcopal party in Scotland must have been without any meeting-house, or other public place of worship, and consequently, must have suffered, instead of being benefited by the toleration granted them; for the clergy of that party in Scotland adhered so obstinately to their nonjuring principles, that none of them would take the benefit of that act by taking the oaths, and praying for the queen and royal family, as therein directed.

I shall conclude, my lords, with stating the case plainly, and fairly, according to that light in which it appears to me. From the non-juring clergymen nothing to be sure, could be expected but a propagation of the principles of Jacobitism, to the utmost of their power, and it has been found, that such of them as qualified, especially those who had been ordained by the nonjuring bishops in Scotland, continued to propagate the same principles, notwithstanding the oaths they had taken to the government. By this means two rebellions have been raised in Scotland, both which have been happily suppressed, but by both the government was brought to the brink of destruction. The danger and expence we were exposed to by the first rebellion were, as one would have thought, sufficient to have awakened our attention, and made us take a proper method for removing the cause which produced so fatal an effect; but it was neglected at that time, and no more thought of, till it again produced the same effect. This we likewise, with great difficulty, got the better of, and then we began to think seriously how to prevent such fatal effects for the future. Among other methods proposed, one was, to make a new and a strict law for shutting up all such episcopal meetings in Scotland as were kept by nonjuring ministers, or such as had received their orders from any nonjuring bishop; but as it was supposed, that several of the meeting-houses in Scotland were kept by nonjuring ministers, who had received their letters of orders from some of the bishops of the Church of England or Ireland, it was resolved to give them a short time to qualify, in order to intitle themselves to continue in possession of their meeting-houses, and in the exercise of their functions.

Pursuant to this resolution, my lords, a law passed in the session of parliament 1745-6, by which it was enacted, "That every person, who then was pastor or minister of any episcopal congregation in Scotland, should, and he was thereby required, on or before Sept. 1, 1746, to produce to the clerk of the jurisdiction within which his meeting-house was situated, a certificate from the proper officer, of his having taken the oaths appointed by law; in failure of which his meeting-house was directed to be shut up by the proper magistrate." And by another clause it was enacted, "That if any person should, from and after the said first of September, presume to enter upon, or exercise the function of a pastor or minister of any episcopal meeting or congregation in Scotland, without having first caused his letters of orders to be registered, or without having qualified himself by taking the oaths, or without having registered his name and place of abode, together with the place where his meeting was to be held, and the certificate of his taking the oaths, such person so offending and convicted thereof, should suffer the punishments by the act prescribed."

Both these clauses you see, my lords, are general as to the letters of orders; but then by a following clause it is enacted, "That from and after the said 1st of September, no letters of orders of any minister of an episcopal meeting in Scotland, shall be deemed sufficient, or be admitted to be registered, but such as have been given by some bishop of the Church of England or Ireland; and that if any other shall be registered, such registration shall be deemed void,

Now, my lords, I think, there is nothing more evident, than that the second

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clause I have mentioned was designed as a restriction upon the first; and that the third, with regard to the letters of orders, was designed as a restriction upon the second. By the first clause, nothing more was required, than that the minister should produce a certificate of his having taken the oaths, and, consequently, if that clause were to be taken separately, he might now continue to exercise the function of an episcopal minister, without registering his letters of orders, or, indeed, without any orders at all; and if the second clause were to be taken separately from the third, a minister or priest, who had received his letters of orders from a nonjuring bishop, or even from a Roman Catholic bishop, might have registered those orders, and might now continue to exercise the function of an episcopal minister; but by taking these three clauses together, it is evident, that beside the certificate, the letters of orders likewise must be registered, and those letters of orders must be such as were received from some bishop of the Church of England or Ireland, all letters of orders from any other bishop being by the said third clause declared insufficient; so that after the said first of September, no episcopal minister could exercise his function in Scotland by virtue of such letters of orders, though granted and registered before that day.

This I think, my lords, is as plain as any meaning can be expressed by words; for if it had been intended, that this third clause should relate only to such orders as were to be granted and registered after the said Sept. 1, the clause would certainly have been made to run thus: "That no letters of orders granted after the said Sept. 1, to any pastor or minister of an episcopal meeting or congregation in Scotland, shall be deemed sufficient, or be admitted to be registered, but such as shall be given by some bishop of the Church of England, or of Ireland; and in case any letters of orders, other than such as are before described, shall be registered, such registration shall be deemed null and void to all intents and purposes.

However, my lords, some of the lawyers in Scotland insisted, that this clause related only to such orders as were to be granted and registered after the said Sept. 1, and that before that day, letters of orders granted by any Protestant bishop, in the terms of the act of the 10th of queen Anne, and registered in the terms of that act, or of this new act, ought to be held sufficient for entitling the minister to continue the exercise of his function in his meeting-house duly entered according to this new law; and upon the faith of this opinion, it may be, for I am not certain, that some of the episcopal ministers, who had received their letters of orders from the old nonjuring bishops in Scotland, did take the oaths, and register their letters of orders, and their meeting-houses, according to the directions of that act; but if they did so upon the faith of that wrong opinion, are we obliged to confirm what they have done, or to neglect explaining a doubt, which has arisen about the meaning of a law now in force?

This, my lords, is all that is intended by the short Clause under our consideration, and I am surprised to find an objection now made, which might as reasonably have been made in 1746, against the clause then passed, and now to be explained: nay, an objection that might as reasonably have been made in 1712, against that part of the law then passed, which confines the toleration of episcopacy in Scotland to such episcopal ministers only, as were or should be ordained by Protestant bishops; for if the parliament have now not a right to determine, that no episcopal minister shall be allowed to exercise his function in Scotland, but such as have received holy orders from some bishop of the Church of England or Ireland, surely the parliament had not then a right to determine, that no episcopal minister should be allowed to exercise his function in Scotland, but such as should be ordained by a Protestant bishop; and as High-Church principles were then so triumphant, I am persuaded this Clause would have been objected to at that time, if there had been the least foundation for saying, that it was an encroachment upon the rights of the Church.

As this Clause, therefore, cannot be deemed any encroachment upon the rights of the Church, and as it can be no encroachment upon any private right legally acquired, because it is only an explanation of a former law; I hope, it will be left standing a part of the Bill now before us.

The Bishop of *Salisbury*: *

My lords; the noble lord who spoke last, began with telling us, he was not fully prepared for answering the objections made

* Dr. Thomas Sherlock.

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against this Clause; but if he had not told us so, I am sure, no one could have supposed that he was not, from what he has said upon the subject; for he picked out and properly applied the very strongest arguments that could possibly be advanced in support of such a cause; and, indeed, he has such a fund of knowledge, and so quick a comprehension, that he can seldom stand in need of much preparation for enabling him to speak upon any subject. For this reason it is always with the greatest caution, that I presume to differ from him in any sentiment, and it is never without concern that I rise up to speak, when I find I have him for an antagonist; but I must say, that upon this occasion I rise up with less concern than ever I did upon any former; because I believe, that what he has said in the present debate, proceeds rather from the prejudices of his education, than from any error in his judgment; and nothing, I think, ever afforded a clearer proof of the strength of such prejudices, than to hear a nobleman of his learning, experience, and capacity, declare himself a Presbyterian.

Whatever the noble lord may think, I shall always be of opinion, that when we are to pass any bill, or any clause, for amending, explaining, or altering a former law, it is necessary, to consider what was the intention of the legislature when the law was passed, because from that intention, as well as from the effects it has produced, we are to judge, whether the law ought to be amended, explained, altered, enforced, or repealed; and I was surprised to hear a nobleman so well versed in the laws of nature and nations, pretend, that self-preservation can ever be an excuse for cruelty or injustice. In private life, no man can for self-preservation kill another man, or deprive him of his property, unless that other has been first guilty of some violence or injustice; and in public life, it is not lawful or right, even for the immediate preservation of society, to take away the life, or to take away, without compensation, the property of any particular member of society, unless that member has deserved it by some failure in his duty towards society; therefore, if by the clause now before us, the life of any private man is to be exposed, or his property taken from him, without compensation, we must enquire, whether he has deserved this treatment by any crime, or any failure in his duty towards society; for if he has not, we shall be guilty of an act of injustice, which no danger, real or imaginary, to which the kingdom may be exposed, can excuse; and that this is the case, with respect to the Clause now under consideration, I shall, I hope, make manifest.

But what is this mighty danger, to which the kingdom may be exposed? My lords, I shall admit, that the government ought to take all possible care to prevent the propagating of any opinions among the vulgar, that are inconsistent with our present happy establishment; but the opinions or principles of Jacobitism can never be propagated in public sermons, or by those ministers who have taken the oaths to the government. In public sermons, we know, that it is impossible to recommend or inculcate such principles, because it would render the preacher liable to a conviction of high-treason, or, at least, misprision of treason; and in private discourses, or lectures, such principles can never be recommended, with effect, by any minister who has taken the oaths to the present government, because of their being directly contrary to the oaths he has taken, and consequently would expose him to the contempt of every man that heard him. A layman may, perhaps, profess such principles, after taking the oaths to the government, and may plead, as an excuse, his having been obliged to take such oaths for the support of himself and family; but in a minister of the gospel of Christ, who by the gospel he preaches, and the example of its Divine Author, is obliged to sacrifice his life for the sake of truth, no such excuse can ever be admitted; therefore, every such minister that takes the oaths to the government, must pretend, at least, that he does so from a conviction of mind; and all his future behaviour must be conform to that conviction, whether real, or pretended, if he intends to gain any credit or authority among the people to whom he preaches, or with whom he converses.

I am therefore fully convinced, that neither of the late rebellions in Scotland was, in the least, owing to the public sermons, or private conversation, of those episcopal ministers, who had taken the oaths to the government; but I am very far from thinking, that both the late rebellions were not, in a great measure, owing to the influence of the nonjuring clergy in that country, whose meeting-houses have for many years been generally connived at by the Presbyterian government there. These clergymen, my lords, by the purity of their re-

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ligious doctrines, by their learning, by the decency of their behaviour, and chiefly by their sufferings, recommended themselves to the affection and esteem of all ranks of people; and, by their example, as well as by their private lectures, they recommended with great power those political principles they professed, and for which they suffered. These are the men, whom we ought to gain over by mild usage, if possible; and the more of them we gain over, the more strength we shall add to our present happy establishment, the more we shall weaken the cause of the Pretender.

My lords, I shall admit, that as to such of them as cannot be gained over, we ought to put a stop to their being allowed to officiate publicly in any meeting-house, or congregation; for though I shall always be an advocate for liberty of conscience, and an indulgence to those who differ from the established church in doctrines purely religious, yet, I think, no government ought to tolerate a sect who mix politics with religion, and propagate doctrines subversive of the state, under which they live and are protected. I say, I think, we ought not to allow the preachers of such a sect to exercise their function in a public manner; but at the same time I must insist upon its being imprudent, as well as cruel, ever to shut the door against their conversion. Such a step I must call persecution: it will be considered as such by all unbiassed men who hear of it; and it will tend more towards propagating their political religious opinions among the vulgar, than the most extensive toleration you can grant them.

My lords, with regard to political opinions, they may be broached by speculatists, but by speculation they can never be established. It is by practice only they can be established, and a political opinion has often been established by the malepractices of those who held the contrary opinion. This it was that brought about the late revolution in Holland, as well as it has done several former revolutions in that country. The question, whether it was best for that country to be governed by a stadtholder, or by a set of republican magistrates, has been bandied about among the speculative politicians there, ever since the death of *king* William; but never produced any effect, till the bad conduct, to call it no worse, of their republican magistrates, universally propagated, and at last established the contrary opinion; and I must recommend it to those who are now, or may hereafter be, the supporters of our present establishment, to take such care of their conduct as never to give an advantage to the principles of Jacobitism; for while they do this, they have nothing to fear from any preachers or speculative politicians: and if the church party in Scotland had ever since the Revolution been as prudently treated as the dissenters in England, we should never, perhaps, have heard of a rebellion in that country.

For this reason, my lords, I am for treating all parties there with the utmost lenity and mildness; and as to those who have been unfortunately bred up in the principles of Jacobitism, whether clergymen or laymen, I am so far from shutting the door against their conversion, that I shall always be for giving them an opportunity to come in. This was the intention of the law passed in 1712, and this I still take to have been the intention of the law passed in 1746, notwithstanding the meaning put upon it by the noble lord who spoke last. The first clause mentioned by him, was, I believe, designed as an invitation, and to give an opportunity to all the episcopal clergy in Scotland, then possessed of any meeting-house, to come in and take the oaths, before the 1st of September then next; and the 2nd and 3rd clause mentioned by him were, I think, designed to affect only such episcopal ministers as should afterwards receive holy orders, and set up meeting-houses in Scotland.

My lords; that this was the design, will appear, by considering the clauses or sections of this act separately and distinctly: by the first, it was enacted, That the sheriffs and other magistrates of the several jurisdictions in Scotland, should, on or before the 1st November, 1746, cause a list or register to be made of the several episcopal meeting-houses within their respective jurisdictions. By the second it was enacted, That every person who then was a minister of any episcopal congregation in Scotland, should on or before the 1st of September then next, produce to the clerk of the jurisdiction, where his meeting-house was situated, a certificate of his having taken the oaths, of which certificate the clerk was, thereby, obliged to make an entry in the said register, and that entry was to express the name of the minister, and the situation of his meeting house; and of this entry he was to deliver

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two copies to the minister, one of which was to be fixed on the outside of his meeting-house, and the other in the most conspicuous place within the same. By the third it was enacted, That every such minister shall pray for the king by name and for all the royal family. By the fourth, the sheriffs and other magistrates were required and obliged, immediately after the said 1st of November, to shut up all the meeting-houses within their respective jurisdictions, whereof the minister had not complied with what was prescribed in the two former sections. By the fifth, it was enacted, That if any person should, from and after Sept. 1, presume to enter upon, or exercise the function of a minister of an episcopal congregation in Scotland without first registering his letters of orders, his name, and place of abode, the situation of his meeting-house, and the certificate of his having taken the oaths; or should officiate as such without praying for his majesty by name, and all the royal family, he should be liable to the punishments therein prescribed. And by the ninth section of the said law, it was enacted, That from and after the said Sept. 1, no letters of orders should be deemed sufficient, or be admitted to be registered, but such as had been given by some bishop of the Church of England, or of Ireland; and in case any other should be registered, such registration should be deemed null and void to all intents and purposes.

These, my lords, are all the sections of that act I have occasion to take particular notice of; and from these it seems to me evident, that the intention of the legislature was to give an opportunity to all the nonjuring episcopal ministers then possessed of any meeting-house in Scotland, to come in and take the oaths, on or before Sept. 1, without being obliged to register their letters of orders; and consequently, that the said fifth and ninth clauses were intended to relate only to such as should after that day enter upon, or begin to exercise the function of an episcopal minister; for otherwise the second and third clauses would have been quite unnecessary; because the fifth followed by the fourth would have been fully sufficient for all that was intended; and the reason for making a difference, with regard to the registration of the letters of orders, between the episcopal ministers then exercising the function, and those who should afterwards enter upon the exercise thereof in Scotland, was, because no doubt could be made of the former's having proper letters of orders, otherwise they would not have been admitted or acknowledged as such by the other episcopal ministers in Scotland; whereas, with regard to the latter, a doubt might be made, and therefore, it was necessary their letters of orders should be registered.

And farther, my lords, I must suppose, that if the fifth section had been meant to relate to those nonjuring clergymen who should take the oaths in pursuance of the second section, it would have been expressed thus, That no person shall enter upon, or continue to exercise the function of a minister. And if the ninth section had been meant to have a retrospect, and to exclude all episcopal ministers from the exercise of their function, who had not their letters of orders from some bishop of the Church of England, or of Ireland, notwithstanding their having qualified in pursuance of the tenth of queen Anne, or of the second section of the act, it would have been expressed thus: And in case any other letters of orders have been, or shall be registered—because there might have been, before Sept. 1, several letters of orders registered in pursuance of this act, or in pursuance of the act of the tenth of queen Anne; and if before that day any letters of orders had been presented to be registered, I do not see how the clerk of any jurisdiction in Scotland could have refused entering them, on account of their not having been given by some bishop of the Church of England, or of Ireland.

I shall most readily grant, my lords, that both these sections might have been more clearly expressed; but when two meanings may be put upon a law, by one of which the law must be deemed cruel and unjust, and by the other humane and compassionate, according to one of the most undoubted rules of interpretation, we are to chuse to put the latter meaning upon the words of it. Now suppose there are several episcopal ministers in Scotland who had their letters of orders from the nonjuring bishops in Scotland, who took the oaths, and registered their letters of orders, several years since, in pursuance of the act of the tenth of queen Anne; and who, in consequence thereof, have been ever since in possession of a meeting-house in Scotland, would it not be unjust, would it not be cruel, to dispossess them of their meeting-house, and much more to subject

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them to the penalties of this law, should they ever hereafter exercise their function in any part of Scotland? Yet this must be the consequence, if we adopt the meaning put upon this law by the noble lord who spoke last, and will be the consequence, if we agree to the explanatory clause now under our consideration.

To say, my lords, that no private property can be affected, because the Clause now before us is only an explanation of a former law, is such an inference as can never be admitted by any sound lawyer; for when a law is expressed in dark and doubtful terms, the lawyers, or judges, certainly will, and they ought to interpret it in such a manner as not to injure any innocent man; but when you come by a future law to explain those dark and doubtful terms, you may injure a private man, and may express your new law so clearly, as to leave no room for the lawyers, or judges, to prevent that injury by any interpretation; which will be the case at present, if you agree to the Clause now before us; for I must insist upon it, that all the episcopal ministers in Scotland, who were ordained by the nonjuring bishops there, and set up meeting-houses in pursuance of the act of the 10th of queen Anne, or who took the oaths, and thereby established themselves in their meeting-houses, according to the directions contained in the second clause of the late act in 1746: I say, I must insist upon it, that such episcopal ministers have as good a right to their meeting-houses, and to exercise their function in those meeting-houses, as any man has to his estate; but supposing this were a disputable point, surely you are not to determine a point of private property, by an explanatory clause in a future law. By our constitution all such disputes are to be determined by the judges, according to the laws in being at the time the dispute happened: from these judges the dispute may come before you by way of appeal; but then you determine it in your judicative, not in your legislative capacity, and you have the advantage of having all parties before you, and of hearing them in their own defence.

After having so clearly laid before you the injustice of the Clause now under consideration, I think, my lords, I need not enquire how many are to suffer by it; for the injustice is the same, if but six are to suffer, as it would be, were there 600. I was very sorry to hear that so few had embraced the favour offered them by the act of 1746; but I must suppose, that one reason of there being so few, was, the shortness of the time they had to consider of it; for the Bill did not receive the royal assent till August 12, 1746; so that the time allowed, was probably expired before many of the episcopal ministers in Scotland heard of it, or, at least, before they could have time to comply with the terms required; and another reason was the doubt that most of them were under, whether they could receive any benefit by taking the oaths, because of their having had their letters of orders from the nonjuring bishops in Scotland. Which two reasons are so strong, that we should rather be surprised, that any of them embraced the opportunity offered, than that so few did; and this, I think, ought to be a prevailing motive with us, to give them a new opportunity, and to explain the 5th and 9th sections of the former Bill, so as to include those letters of orders only, that were, or should be, granted after Sept. 1, 1746.

But, my lords, I must upon this occasion declare my opinion, that we ought not at all to require, that a minister's letters of orders should be registered in the court books of any civil judicature whatsoever; and much less ought we to declare all orders insufficient, except those granted by some bishops of the Church of England, or of Ireland: noble lords may shew their ingenuity, by reasoning upon this point; but nothing can persuade me, that this is not a sort of encroachment upon one of the most essential rights of the Church, which is that of judging what is necessary for giving a man an authority to preach the gospel of Christ, and administer the most holy sacraments of our religion; and from determining who shall not have such an authority, it is but a very short step to the determining who shall: such regulations may be confirmed by act of parliament, but, like the other canons of our Church, they ought to take their rise somewhere else. I shall grant, that this objection might, and ought to have been made against the act of the 10th of queen Anne; but probably those who ought to have made it at that time, were afraid of having that Bill thrown out, and therefore they were willing to wave making this objection, rather than risk losing a Bill, which was so necessary for the relief of their suffering brethren in Scotland; and in 1746, the rebellion had so warmed our zeal against the nonjuring clergy in Scot-

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land, that it would, at that time, have been in vain to have made any such objection: we could then have expected nothing but that of having such a material question determined in the most solemn manner against us; but now we are a little more cool, it is to be hoped, that for the sake of securing the Protestant succession, we shall not give a wound to that Church, which is the chief barrier of the Protestant religion.

This, my lords, is, I think, an unanswerable objection against our requiring, that an episcopal minister's letters of orders should be registered in the court books of any civil judicature, and much more against our declaring all letters of orders insufficient, except those granted by some minister of the Church of England, or of Ireland; but against this last there is a yet stronger objection; for it is almost the same with declaring, that no episcopal Church shall be so much as tolerated in Scotland; because it will be impossible to supply that Church with ministers, if no letters of orders be allowed to be sufficient, but such as are granted by some bishop of the Church of England, or of Ireland. If we consider, my lords, what a long and expensive journey it is from the northern parts of Scotland, to the nearest part either of England, or Ireland; and if we consider what a small income any minister can expect by keeping a meeting-house in any part of that kingdom, we must conclude, that no man, who is willing to content himself with such a small income, will ever be able to bear the expence of making two such long journies, in order to get himself ordained. This is loading them with a much heavier burden than that of first-fruits and tenths in England, and is far from being so charitable as the act of the 5th of queen Anne, which discharged from the payment of first-fruits and tenths, all benefices, with cure of souls, not exceeding the clear yearly value of 50*l.* improved valuation.

But, my lords, supposing a poor man, enabled by charity to make such journies, when he is come as far as Carlisle, or Durham, how shall he expect to get himself ordained: our bishops are, by the canons, laid under many restrictions with respect to the granting of orders, one of which is, that no bishop shall ordain any person who is not of his own diocese, without letters dimissory from the bishop of whose diocese he is; and such letters it is impossible for any man in Scotland to obtain. Another restriction is, that the bishop is not to ordain any man without a title, that is, some place where he is to preach, and by which he may support himself, of which he must exhibit to the bishop a certificate; and if a bishop ordains any man without such a certificate, he is obliged to maintain him, till he get him preferred to some ecclesiastical living. There are several other restrictions, my lords, by our canons; and by a much higher authority, by the authority of the apostle Paul, bishops are enjoined not to lay their hands rashly upon any man. How then can any man from the north of Scotland expect to be ordained by an English or Irish bishop, when he cannot obtain letters dimissory, or a certificate of his having a title, or a testimonial of his good life and conversation, from any person known to, or that can be credited by the bishop? And if he can surmount all these difficulties, unless he can obtain a dispensation from the bishop, he must go home again after obtaining deacon's orders, and after a year must make another such journey for obtaining the orders of priesthood.

In short, my lords, there are so many difficulties, that I must suppose this Clause to have been suggested by some Presbyterian, or some enemy to the Church of England; and therefore, I hope, that next session something will be thought of for supplying the episcopal Church in Scotland with qualified bishops, as well as ministers. In the mean time, I shall be against any thing that shall deprive the Church there of any of the qualified episcopal ministers they now have, and shall therefore be against the Clause now under our consideration.

The Duke of *Newcastle*:

My lords; the reverend prelate who spoke last, took notice of the powerful influence which the prejudices of education have upon our way of thinking and judging, in all affairs of life; and, I think he himself stands forth an example of it, as strong as can any where be met with. I am persuaded, there is no man more firmly attached than he is to the Protestant succession now happily established in this kingdom, and yet he has been bred up with such a regard for the Church, and such a jealousy of every thing that may have the least appearance of an encroachment upon her rights and privileges, that he would chuse to expose the Protestant

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succession to be undermined by wolves in sheep's cloathing, rather than allow the parliament to determine, who shall be deemed the proper instructors and leaders of the people within his majesty's dominions.

My lords, if the question now before us were, whether ordination by a Popish bishop, or by one who is held to be a bishop amongst the nonjurors, were such an ordination as might intitle a man to the character of a priest or a deacon in the Church; or if we were to empower any civil judicature to determine this question, I should be as zealous against our determining such a question or granting such a power, as any noble lord in this House; but neither of these is the case with respect to the Clause now under consideration. We are only to determine, that such an ordination is not proper for intitling a man to exercise the function of priest or deacon in any episcopal meeting in Scotland; and that it may appear by whom every man who intends to exercise that function in Scotland, has been ordained, we have already ordered his letters of orders to be registered in the court books of some of the civil judicatures within that kingdom.

Neither of these, my lords, can in the least interfere with any right or privilege belonging to the Church. It is a question in politics only, and with such questions, I think, the most zealous churchman cannot pretend, that the Church has any thing to do. For both these political regulations the reverend prelate has himself furnished us with a very strong argument. The prejudices of education are of such force, that very few men ever get entirely the better of them; and it has been found, by experience, that those who have been bred up in Jacobite principles from their infancy, generally retain a warm side that way, and are too apt to shew it as often as they safely can, notwithstanding their having taken the oaths to the present government. This, I say, has been found by experience, and it is certainly to be presumed, that every man, who takes holy orders from a nonjuring bishop, is such a one as has been bred up in the same principles with the bishop from whom he chuses to receive holy orders, and consequently, must be presumed ready to inculcate those principles as often as he safely can, notwithstanding his having taken the oaths to the present government; therefore the parliament has wisely thought fit to exclude all such men from exercising the office of priest or deacon in Scotland, where the people are naturally, and without any instruction, but too apt to rebel; and where the vulgar have always been more under the influence of their preachers than in most other countries.

My lords; it is true, that no man can publicly, in his sermons, inculcate the principles of Jacobitism: it is equally true, that no man, who has taken the oaths to the government, can, with a good grace, inculcate such principles in private conversation; and it is likewise true, that if you exclude such men from publicly exercising their function, they will probably exercise it in a private manner, and will then more zealously inculcate such principles, especially in Scotland, where, from several late events it is known, that the lower sort of people are not so ready to discover, or impeach, even for the highest rewards, as in some other countries. But, my lords, though no minister can publicly, in his sermons, inculcate the principles of Jacobitism, yet if he be a learned and eloquent preacher, he may, by his sermons, gain a more commanding influence over his hearers than he could ever otherwise attain to, and from thence may, with greater weight, recommend whatever doctrines, either in religion or politics, he pleases to inculcate in his private conversation or lectures: nor will his having taken the oaths to the government much diminish the weight of his recommendation; for the people do not now expect, that even the ministers of the gospel should become martyrs, when they can avoid it by taking the oaths to the government; on the contrary, the people will learn from them to look upon the imposition of such oaths as a sort of persecution, and to take the same oaths themselves, when required, without altering or forsaking their former principles, by which they will become more dangerous subjects than they could have been, had they never taken the oaths; for those concealed Jacobites, who are ready to take all the oaths we can put to them, are of all others, the government's most dangerous enemies. And though we cannot altogether prevent such ministers from exercising their function privately, yet we shall prevent their having such a powerful, or such an extensive influence, as they would have, were they to exercise their functions in a free and open manner. Our preventing their public preaching will, therefore, be of some service; and if we cannot absolutely prevent an evil, it is not, surely,



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an argument against our doing all we can.

My lords; as I was from my infancy, educated in the principles of the Church of England, and still profess the same principles, I hope it will be presumed, that I shall be ready to concur in any measures for propagating those principles in Scotland, as well as England, provided those measures be such as are consistent with the Articles of Union, and of no dangerous consequence to the safety of our present happy establishment, upon the preservation of which the very being of our Church depends. I am, therefore, very sorry to hear it suggested, that there are so few Episcopal ministers in Scotland, except those who have had their letters of orders from some of the nonjuring bishops there; and that if we exclude these last, there will be a great want of episcopal ministers in that country; but this want will, I hope, be soon supplied by the care of our bishops, and the charitable contributions of our clergy; for I cannot comprehend how the difficulties in obtaining ordination come to be so great, as has been suggested by the learned gentleman who spoke last, considering how many priests, or deacons, we have every year ordained.

My lords, I do not pretend to be learned in the canons or rules of the Church, with respect to ordination; but from the little I have read, and heard upon this subject, I know that a title, such as a curacy, or the like, may be easily obtained; because the person who gives such a title, is not obliged to continue the person he grants it to in possession, longer than he pleases, and the bishop, within whose diocese the title lies, may thereupon ordain him, or grant him letters dimissory, in order to his being ordained by some other bishop. Then as to the testimonials of his good life and conversation, there are so many worthy and learned gentlemen of Scotland, now settled in the Church here, and so many other gentlemen of that country always residing here, that if the testimonial be subscribed by any gentlemen of character in Scotland, they must be known to some of the gentlemen of that country residing here, who can, and will, upon a letter from the subscribers, authenticate the testimonial to the bishop here, who is to ordain. And though, regularly, a deacon ought to continue one whole year in that office, before he can be ordained priest, yet this the bishop may dispense with, and may ordain a man priest but a few days after he has been ordained deacon, the indispensable canon being only, that no man shall be ordained priest and deacon in one day; so that a man, who comes from Scotland for orders, needs not make above one journey, and his expence, it is to be hoped, will be made up to him, by the charitable contributions of the rich clergy in this kingdom. I cannot, therefore, think there are such insuperable difficulties in supplying very soon all the meeting-houses in Scotland with episcopal ministers, regularly qualified, according to the late act, and such as have been bred up, from their infancy, in true principles of politics, as well as religion; and if any such difficulties should appear, a remedy may easily be contrived, by a new canon confirmed by act of parliament in some future session.

Noble lords may perceive, that what I have hitherto said, has been in justification of the act passed two years ago, and upon a supposition that, by the said act, all episcopal ministers are excluded from the exercise of their function in any meeting-house in Scotland, unless they be such as have received their letters of orders from some bishop of the Church of England, or of Ireland; and that this was the intention of that law, appears so plainly, from the words of it, which I take to be the only way of determining what was the intention, that I was surprized to hear of any doubt raised in Scotland about the meaning, but much more to hear that doubt supported in this House. I shall admit, that if there were any doubt we ought to chuse that meaning which does no wrong to any innocent man, rather than that which does; but with me there is no doubt, and therefore I think the present clause unnecessary, though I shall nevertheless agree to it for the sake of others, and because abundance of law can never break the law; and supposing there were some ground for a doubt in this case, I believe, we are debating about a shadow, or phantom, which has no real existence; for, as I am informed, it is above 30 years since the last of those died, that were bishops in Scotland at the time of the Revolution, consequently we can hardly suppose, that any of the episcopal ministers now in Scotland, are such as received their orders from any of those bishops; and surely neither the law nor the Church will acknowledge those men to be bishops, who have been elected since that time by virtue of an authority, or *congé d'elire* from the late king James, or present Pretender; for

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that there are such pretended bishops, both in England and Scotland, every one knows, though it be impossible to find such a proof of it, as may subject them to a prosecution, or conviction.

But supposing, my lords, that there are still in Scotland some episcopal ministers, who were ordained by some of the outed bishops there, and supposing that they have, in pursuance of the Act of the 10th of queen Anne, entitled themselves to set up and officiate in a meeting-house in that country; which, pray, is the greatest wrong, to oblige them to take new orders from some bishop of the Church of England, or Ireland, as a sign of their thorough conversion: or to leave them to propagate rebellion and sedition among his majesty's subjects, as from what has happened it is probable, they have been doing for these 30 or 40 years past? I know of no canon, or rule of the Church, that forbids a man's taking orders a second time, even though he be convinced, that the orders he at first received were regular and valid, according to the rules of the Church; and if he refuses to give this sign of his thorough conversion, the shutting up of his meeting-house is no wrong, but a punishment for his contumacy which he highly deserves; whereas, to allow him to continue in his former practices, is a wrong done to our country, and to all his majesty's honest and faithful subjects.

Thus, my lords, even according to the rule of interpretation laid down by the reverend prelate who spoke last, if there be any doubt, as to the meaning of that law which was passed in 1746, that meaning ought to be put upon it, which it is proposed by this Clause to explain and enforce. And as to those episcopal ministers, who had their orders from the pretended bishops chosen, as I have mentioned, since the Revolution, I think, it is absolutely necessary to oblige them to take new orders from some bishop of the Church of England, or Ireland, before they be admitted to officiate in any meeting-house in Scotland, whether they be such as have qualified by mistaking the meaning of the late act, or such as may hereafter be willing to qualify by taking the oaths, and praying for the king and royal family, as by law appointed. If they refuse to get themselves thus a second time ordained, they must, I think, chuse some other employment; for no compassion towards them shall ever induce me to consent to what I think may be of dangerous consequence to our present happy establishment.

The Earl of *Morton*:

My lords; the present debate has continued so long, and so much has been said upon the subject, that I should have given you no trouble on this occasion, had I not observed, that the whole of the argument, in favour of the Clause now before us, is founded upon two suppositions, one of which I think extremely uncharitable, and the other entirely groundless. In order to support this regulation, for excluding from the office of the ministry, all such episcopal ministers in Scotland, as have received orders from any nonjuring bishop, even though they have qualified, or are willing to qualify, by taking the oaths to the government, and praying for the king and royal family, as by law directed, it is first supposed, that in violation of the oaths they have taken, and in contempt of the prayers they daily and publicly put up to their Maker, they have continued, and will continue to propagate and inculcate the principles of Jacobitism: now this I must call a very uncharitable supposition; and what is still worse, it is contrary to fact, according to the best information I could ever come at, and I have had an opportunity to enquire, because I am not only acquainted with several gentlemen of Scotland, but have been in that country: and therefore I am afraid, that if any contrary information has been received, it comes from those who are enemies to the episcopal religion in Scotland, and very little acquainted with the behaviour of the ministers of that religion.

My lords, the other supposition is, that no man will receive orders from a nonjuring bishop, unless it be such a one as has, from his infancy, been educated in the principles of Jacobitism. Now this supposition there would, I shall grant, be some ground for, if those of the episcopal persuasion in Scotland had any choice; but we all know, they have no choice. A man who is of that religion in Scotland, and designs to be a minister of the gospel of Christ, must necessarily receive orders from a nonjuring bishop, because there are none other in that country. I say, he must necessarily receive orders from such a bishop, unless he has money to bear the expence of a journey or two to England or Ireland, and friends there to give him a title and a testimonial, which we cannot suppose any man has, who designs to exercise his function in that country, where he

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can expect no preferment, nor any maintenance but what depends upon the generosity and good will of his hearers, which they may diminish, or wholly withdraw, whenever they please; for this reason, if any man of family or fortune, in that country, be designed for a clergyman of the Church of England, he is sent up to one of our universities here, and as soon as he has got orders, he generally, by his learning and capacity, recommends himself to some preferment in the Church in this kingdom.

For these reasons I must think, my lords, there is not the least ground for this supposition. On the contrary, as there is nothing in the ceremony of ordination, no oaths to be taken, nor promises made, but what may be taken and made by a man perfectly well affected to our present happy establishment, and as I have been credibly informed, that the non-juring bishops in Scotland have added nothing to this ceremony, I think, I have good reason to suppose, that the non-juring bishops in Scotland have ordained several persons, who were bred up in principles agreeable to our present constitution, and who were ready to take the oaths to the government, as soon as it should become necessary; for no man ought, I think, to take an oath, not even the oaths to the government, till it becomes necessary for him to do so.

I am therefore, my lords, so far from joining in either of these suppositions, that I am persuaded no episcopal minister in Scotland, who has taken the oaths to the government, ever propagated any rebellious or seditious doctrines; on the contrary, I am convinced, that both the late rebellions in Scotland were, in a great measure, owing to their having so few such men among them, which reduced the episcopal party there to the necessity of having divine service performed by non-juring clergymen, who took all opportunities to propagate the principles of passive-obedience, non-resistance, and the indefeasible hereditary right of kings, among the people of their respective congregations; and from charity, as well as experience, I must suppose, that no episcopal minister, though ordained by a non-juring bishop, who has lately taken the oaths, or who may hereafter be willing to take the oaths: I say, I must from both these motives suppose, that no such minister will afterwards endeavour to propagate such principles; therefore, instead of rendering it impossible, or very difficult for them to reap any benefit from taking the oaths, I think, we should invite them by all the methods we can contrive.

I shall admit, my lords, that for a gentleman born in England, who of course has many friends, and many clergymen of his acquaintance here, it is no difficult matter to procure a title for ordination; but for a man of low birth, and born in the north of Scotland, without any friend, without any gentleman or clergyman of his acquaintance in England, especially in those dioceses that border upon Scotland, can we suppose it easy for him to procure a title? This he cannot be assured of before he sets out, and if he should fail in obtaining one, or should be refused ordination, on account of his not being duly qualified, he must return home again *re infecta*. Under such uncertainties can we suppose, that any poor man will ever undertake such a long, such an expensive journey? Therefore, if the clause in the former act be explained, as intended, by that now under consideration, I shall look upon it as contrived and promoted by the Presbyterians in Scotland, not with a design to secure, but to endanger our present happy establishment, by leaving the episcopal party in Scotland, still under the influence of non-juring clergymen, and bringing upon his majesty's reign, the odium of having passed an act, to abolish the remains of episcopacy in that kingdom.

How the succession of bishops has been preserved, or whether it has been preserved, since the revolution in Scotland, is what I do not pretend to be acquainted with. If it has been preserved by a correspondence with, or an authority from the late king James, it is certain, the established Church here cannot acknowledge any bishops that have been chosen by such an authority. But if without any such authority, the order of bishops has been regularly continued in Scotland, ever since the Revolution, according to the methods observed among the primitive Christians, whether such bishops may be acknowledged by the Church here, is a question that deserves such a serious consideration, that I shall not, at present, presume to deliver my opinion; but I am very sure that such a question ought not, in the first instance, to be determined by parliament; and to enact, that no person ordained by such a bishop shall be allowed to exercise his function in Scotland, notwithstanding his qualifying himself for that purpose according to law, looks so like a parlia-

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mentary determination of this question before it has been considered by the Church, that I cannot give my consent to the passing of such a law, because I cannot convince myself, of its being no encroachment upon the rights of the Church.

Besides, my lords, if ordination, by a bishop in Scotland, be such a one as ought to be approved by the Church, I can see no political reason why it ought not to be approved of by the state. To suppose that every man, so ordained, must be such a one as has been bred up in the principles of Jacobitism, is a supposition that I have shewn to be groundless, and if there were ground for it, it is neither christian nor prudent to shut the door against every such man's conversion. Such a maxim looks more like that of a faction, who are resolved to monopolize all the powers and profits of government to those of their faction, than like that of a party, who have the general good of their country chiefly in view.

The noble lord who spoke last, was so sensible of this, that he was willing to admit such men, provided they gave a new sign of their thorough conversion, by taking orders a second time, which, he supposed, they might do; and indeed I do not at present recollect any canon or rule of the Church against it. Like parricide among the old Romans, the thing is so new, that, I believe, there is no express canon against it; but it is making so free with the sacred institution of ordination, that I should not chuse to be the person that received, or the person that conferred holy orders a second time; and can any one suppose, that a man, who, in violation of his oaths to the government, should continue to promote the cause of the Pretender, would have any greater regard for the second orders he had received?

In short, my lords, I think we have gone too far already, in enacting, That no letters of orders granted after September 1, 1746, shall be sufficient to entitle any episcopal minister to keep a meeting-house in Scotland: and that this was the utmost that was intended by the law made that year, I am as little in doubt about, as the noble lord seems to be about the contrary opinion; therefore I must look upon the Clause now before us, not as an explanation, but as an extension of a former law, and as an extension too of a law that ought never to have been made. By that law, even in the sense I put upon it, you will make it very difficult to supply the episcopal Church in Scotland, with ministers qualified according to law; but by this Clause you will render the thing impossible, at least for half a century to come; during all which time the people of that persuasion in Scotland will be left a prey to non-juring clergymen, and Popish priests: and as the latter have a support from Rome, they will be more industrious, and more daring in perverting the vulgar than the former, so that this Clause will be of the most dangerous consequence, not only to our present happy establishment, but to the Protestant religion: and consequently, to put such a meaning upon the act of 1746 as I contend for, without extending it any farther, will be so far from leaving the country exposed to, that it will secure it from danger; whereas, to put such a meaning upon that act, as the noble lord who spoke last contends for, and to fix that meaning, by the Clause now before us, will not only expose our country to danger, but will be a hardship at least upon innocent men, if not a glaring injustice; for whatever doubt may be made with respect to those ministers that have qualified in pursuance of the late act, no doubt can be made with respect to those that qualified and set up meeting-houses in Scotland, in pursuance of the act of the 10th of queen Anne. As to them, they have an undoubted right to their meeting-houses, and to officiate in those meeting-houses, which we are to deprive them of, without the least proof of any thing like a crime; nor is it enough to say, that they may recover their property, by taking orders a second time, because it may be impossible for them to do so, at least it will be impossible for them to do so without putting themselves to the expence of a long journey to England or Ireland.

As to those poor clergymen who may, by this Clause, be deprived of their only means of subsistence, notwithstanding their having taken the oaths to the government, I was really sorry to hear it suggested by the noble lord, that they might chuse some other employment for the support of themselves and families. Alas! my lords, a clergyman in holy orders is expressly forbid by the canons to give himself to any base or servile labour; and what other sort of employment can a poor man chuse, who has no stock, unless it be a stock of learning, and a few books in his study? Therefore, to deprive a man of the liberty of officiating, in any meeting-house in

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Scotland, is really to deprive him of his daily bread.

To conclude, my lords, this Clause is fraught with such dangerous consequences to the public, and such great hardships upon private men, that I can neither as a Christian, a Churchman, an Englishman, a faithful subject to his majesty, or a man of any humanity, give my consent to its being passed into a law.

The question being at last put, That this Clause stand part of the Bill; it was carried in the negative, Not Contents 32, Contents, 28. But upon the Report next day, when the question was put, to agree with the committee in this amendment, a new debate ensued, and upon the division, the Not Contents were 37, the Contents 32, so that the Clause was replaced, and the Bill with this Clause in it passed*.

* "In the islands the plaid is rarely worn. The law by which the Highlanders have been obliged to change the form of their dress, has, in all the places that we have visited, been universally obeyed. I have seen only one gentleman completely clothed in the ancient habit, and by him it was worn only occasionally and wantonly. The common people do not think themselves under any legal necessity of having coats; for they say, that the law against plaids was made by lord chancellor Hardwicke, and was in force only for his life; but the same poverty that made it then difficult for them to change their clothing, hinders them now from changing it again. * *

"The last law, by which the Highlanders are deprived of their arms, has operated with efficacy beyond expectation. Of former statutes, made with the same design, the execution had been feeble, and the effect inconsiderable. Concealment was undoubtedly practised, and perhaps often with connivance. There was tenderness or partiality on one side, and obstinacy on the other. But the law, which followed the victory of Culloden, found the whole nation dejected and intimidated; informations were given without danger and without fear, and the arms were collected with such rigour, that every house was despoiled of its defence.

"To disarm part of the Highlands, could give no reasonable occasion of complaint. Every government must be allowed the power of taking away the weapon that is lifted against it. But the loyal clans murmured, with some appearance of justice, that, after having defended the king, they were forbidden, for the future, to defend themselves; and that the sword should be forfeited, which had been legally employed. Their case is undoubtedly hard, but in political regulations, good cannot be complete, it can only be predominant." Dr. Johnson's Journey to the Hebrides, 1773.

*The King's Speech at the Close of the Session.*] May 13. The King came to the House of Lords, and made the following Speech to both Houses:

"My Lords and Gentlemen;

"At the opening of this session of parliament I informed you that a congress had been agreed upon by the several powers at war; and I have now the satisfaction to acquaint you, that Preliminaries for restoring a General Peace have been signed between my minister, and those of the most Christian king, and the States-General of the United Provinces; the basis of which is a general restitution of conquests made, during the war on all sides.

"In consequence of these preliminaries, which have been ratified by all the contracting parties, a cessation of hostilities has actually taken place in the Low Countries, and in the Channel; and certain periods are fixed, according to former practice, for its commencement in other parts of the world.

"In this important transaction my great views have been, steadily to adhere to the true interests of Europe, to pursue and maintain those of my own kingdoms in particular, and to procure for my allies the best terms and conditions, that the events of a war, in some parts unsuccessful, did admit.

"I have, in the course of this negociation, acted with the most unreserved confidence and communication towards my allies: and I hope that, when they have maturely weighed the situation of affairs, the necessity from thence arising, and the care and attention which have been shewn for their advantage and security, they will not delay to accede to these preliminary articles, but concur in effectuating the good work of peace.

"The vigorous and powerful support you have given me, during this session, towards carrying on the war, has strengthened my hands, in proceeding thus far in the measures of peace. Nobody can suggest the least failure on the part of Great Britain, which, not only for the sake of its own particular interest, but of the common cause, has taken on itself a share of the burden, unexampled in former times. I hope soon to see this necessary work brought to perfection, with the concurrence of all my allies, with whom it is my firm intention to cultivate the most perfect harmony, and to cement and strengthen, if possible, the ties of our ancient union

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and friendship, in such a manner as may render the peace secure and durable.

"Gentlemen of the House of Commons;

"My particular thanks are due to you, for the ample provision you have made for the service of the current year. Nothing could have contributed so much to the putting an end to the calamities of war, and reducing our future expences, as these well judged Supplies. The most prudent œconomy shall be made use of in the application of them; and you may be assured, nothing will give me more real pleasure, than to take the first opportunity of lessening the present burdens of my people.

"My Lords and Gentlemen;

"I cannot sufficiently express my entire satisfaction in your whole conduct, during this session; and I must recommend it to you, to promote in your several countries a right sense of those measures, which have been so necessarily taken for the security and ease of my people. As it is the earnest desire of my heart, to see the crown of Great Britain maintain that figure, strength, and weight, in making war and peace, which justly belong to it, it is equally so, to see my good subjects enjoy the blessings of tranquillity and prosperity."

The Lord Chancellor, by his majesty's command, then prorogued the Parliament to the 30th of June. It was afterwards further prorogued to the 29th of November.

## SECOND SESSION OF THE TENTH PARLIAMENT OF GREAT BRITAIN.

*The King's Speech on Opening the Session**.] November 29, 1748. The King went to the House of Lords and opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen;

"I acquainted you, at the close of the last session of parliament, that Preliminary Articles for a General Pacification had been signed by my minister, and those of the most Christian king, and the States General of the United Provinces; to which the empress queen of Hungary, the kings of Spain and Sardinia, and the other powers engaged in the war, soon afterwards acceded.

"I lost no time in taking the proper measures, with my allies, for effectuating a General Peace by a Definitive Treaty, in which all parties were to concur: and, notwithstanding the difficulties which must attend so extensive a work, wherein the respective interests of so many powers were to be finally adjusted by common consent, I have been able, by the blessing of God, in the course of the summer, to complete it: and I have the pleasure to acquaint you, that a definitive treaty, previously concerted with my allies, has been signed by my ministers, and those of France, and the States General; to which all the other powers concerned in the war have acceded without reserve.

"It has been my chief endeavour, in putting an end to the calamities of war, to make the most effectual provision for securing the rights and interests of my own subjects, and to procure the best terms and conditions for my allies, that the situation of affairs would admit. And I take much satisfaction in being able to tell you, that I have found a general good disposition in all the parties engaged in the war, to bring this negociation to a happy conclusion. From these circumstances, we may promise ourselves, under God, a long enjoyment of the blessings of peace, provided we make the right use and improvement of it.

* "The party of the prince of Wales, or, as it was usually stated, of Leicester House, from the place of his residence, began at this time to assume a formidable appearance, by uniting with the remains of the former opposition, and with those who, like sir John Hynde Cotton, had deserted the party of the court. The parliamentary leaders of this party in the House of Commons, were lord Egmont, author of the celebrated pamphlet, "Faction Detected," a fluent and plausible debater, warm in his friendships, and violent in his enmities; Dr. Lee, a civilian of high integrity and profound investigation, who tempered an equal ardour with greater judgment; and Mr. Nugent, an undaunted, lively and eccentric speaker. The party had recently gained an acquisition in Mr. Doddington, a former adherent of the prince, who, at his request, resigned the treasuryship of the navy, in which office he had considerably enriched himself. He was induced to quit the administration by the offer of the prince to reinstate him in full favour, and to place in his hands the whole di-

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"Gentlemen of the House of Commons;

"As great a progress has been made towards reducing the public expences, as the nature of the case will allow; and I only desire you to grant me such Supplies as may be requisite for the current service of the year, for your own security, and for making good such engagements as have been already entered into, and laid before you. Times of tranquillity are the proper seasons for lessening the national debt, and strengthening ourselves against future

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rection of his affairs. But he found the new court more agitated with feuds and cabals than the ministry which he had deserted. The adherents of the prince fondly anticipated his accession to the throne, and, in imagination, divided among themselves the spoils of administration. Mr. Doddington was appointed treasurer of the chambers, and kissed the prince's hand on the promise of a future peerage, the management of the House of Lords, and the seals for the southern department. He was commissioned to announce to Mr. Furnes a seat at the treasury board, to sir Francis Dashwood the treasurership of the navy, and to Mr. Henley the office of solicitor-general, and to settle with lord Talbot the place which he would occupy. Meetings were formed, and consultations held, for arranging the proceedings at the commencement of a new reign; and a plan adopted to dismiss the Pelhams, dissolve the parliament, and obtain a new civil list of 800,000*l.* a clear annuity, throwing the surplus of the revenue to the public. Mr. Doddington undertook to raise two or three hundred thousand pounds until the new parliament should grant the civil list. These arrangements were communicated to the earl of Carlisle, lord chief justice Willes, and several other persons in the confidence of the prince; and the division of the spoil, as might have been expected, occasioned endless intrigues.

"These proceedings were too public not to be known at court, and excited the resentment of the king, and the jealousy of the ministers, which were still farther heightened by a dispute relating to the court of Stannaries in Cornwall. The breach was widened by the arts of lord Bolingbroke, who at this period influenced the counsels of Leicester House. Excluded by the voice of all parties from a share in the government, he endeavoured to annihilate all party distinctions, and to promulgate a political creed, founded on metaphysical subtleties, and theoretical notions, incompatible with the principles of human government, and hostile to the Church and Constitution of England.

"In the second and third sessions of the new parliament, the adherents of the prince took the lead against administration; but, divided among themselves, and supported only by a small remnant of the former opposition, were ill calculated to combat the strong and compact phalanx of the ministerial party; among whom the names of Pelham, Fox, Pitt, and Murray stood most conspicuous." Coxe's Memoirs of Lord Walpole.

"By this time the misunderstanding between the two first personages of the royal family, had been encreased by a fresh succession of matter. The prince of Wales had held a court of Stannary, in quality of duke of Cornwall; and revived some claims attached to that dignity, which, had they been admitted, would have greatly augmented his influence among the Cornish boroughs. These efforts roused the jealousy of the administration, which had always considered them as an interest wholly dependent on the crown; and, therefore, the pretensions of his royal highness were opposed by the whole weight of the ministry. His adherents, resenting these hostilities as an injury to their royal master, immediately joined the remnant of the former opposition in parliament, and resolved to counteract all the ministerial measures that should fall under their cognizance; at least, they determined to seize every opportunity of thwarting the servants of the crown, in every scheme or proposal that had not an evident tendency to the advantage of the nation. This band of auxiliaries was headed by the earl of Egmont, Dr. Lee, and Mr. Nugent. The first possessed a species of eloquence, rather plausible than powerful: he spoke with fluency and fire: his spirit was bold and enterprising, his apprehension quick, and his repartee severe. Dr. Lee was a man of extensive erudition and irreproachable morals, particularly versed in the civil law, which he professed, and perfectly well acquainted with the constitution of his country. Mr. Nugent was an orator of middling abilities, who harangued upon all subjects indiscriminately, and supplied with confidence what he wanted in capacity: he had been at some pains to study the business of the House, as well as to understand the machine of government; and was tolerably well heard, as he generally spoke with an appearance of good humour, and hazarded every whimsical idea, as it rose in his imagination. But lord Bolingbroke is said to have been the chief spring which, in secret, actuated the deliberations of the prince's court. That nobleman, seemingly sequestered from the tumults of a public life, resided at Battersea, where he was visited like a sainted shrine by all the distinguished votaries of wit, eloquence, and political ambition. There he was cultivated and admired for the elegance of his manners, and the charms of his conversation. The prince's curiosity was first captivated by his character, and his esteem was afterwards secured by the irresistible address of that extraordinary personage, who continued in a regular progression to insinuate himself still farther and farther into the good graces of his royal patron. How far the conduct of his royal highness was influenced by the private advice of this noble-

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events; and, as the necessary means for these purposes, I must recommend to you the improvement of the public revenue, and the maintaining our naval force in proper strength and vigour.

"My Lords and Gentlemen;

"It is impossible for me to speak to you, on this subject of the happy re-establishment of the public tranquillity, without returning you my sincerest thanks, for the great and affectionate support you have given me, in carrying on this just and necessary war; in which not only the common cause of Europe, but our own independency and essential interests, were highly concerned. As the extraordinary burdens which it brought upon my good subjects gave me much uneasiness; so I could not but wish to see as speedy an end put to them as possible. Whatever the events of war may have been, the bravery of my troops has distinguished itself, on every occasion, to their lasting honour; and our signal successes at sea must ever be remembered, to the glory of the British fleet, and entitle it to the particular attention and support of this nation. You will further consider, that those brave men who have served well by sea or land, and cannot now be employed, justly deserve to be the objects of your favour and protection.

"As my first care has been, to take the most early measures that my people may as soon as possible reap the benefits of peace; so I doubt not of your cheerful assistance in perfecting this good work. Let me earnestly recommend to you the advancement of our commerce, and cultivating the arts of peace; in which you may depend on my hearty concurrence and encouragement. It shall be my endeavour to continue these blessings, by a punctual execution of the engagements now taken, and by maintaining the most perfect harmony and good correspondence with the friends and allies of Great Britain.

"The experience I have had of you makes me rely on the zeal, unanimity, and dispatch, of your proceedings; and you may be assured, that nothing shall be wanting on my part, to make you a flourishing and happy people."

*The Lords' Address of Thanks.*] His Majesty having retired, the following Address, moved for by the Earl of Powis and seconded by the Earl of Kildare, was agreed to:

"Most Gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and tem-

man, we shall not pretend to determine; but, certain it is, the friends of the ministry propagated a report, that he was the dictator of those measures which the prince adopted; and that, under the specious pretext of attachment to the heir apparent of the crown, he concealed his real aim, which was to perpetuate the breach in the royal family. Whatever his sentiments and motives might have been, this was no other than a revival of the old ministerial clamour, that a man cannot be well affected to the king, if he pretends to censure any measure of the administration.

"The weight which the opposition derived from these new confederates in the House of Commons, was still greatly overbalanced by the power, influence, and ability, that sustained every ministerial project. Mr. Pelham, who chiefly managed the helm of affairs, was generally esteemed as a man of honesty and candour, actuated by a sincere love for his country, though he had been educated in erroneous principles of government, and in some measure obliged to prosecute a fatal system, which descended to him by inheritance. At this time he numbered Mr. Pitt among his fellow-ministers, and was moreover supported by many other individuals of distinguished abilities; among whom the first place in point of genius, was due to Mr. Murray (afterwards lord Mansfield) who executed the office of Solicitor General. This gentleman, the son of a noble family in North Britain, had raised himself to great eminence at the bar, by a most keen intuitive spirit of apprehension, that seemed to seize every object at first glance; an innate sagacity, that saved the trouble of intense application; and an irresistible stream of eloquence, that flowed pure and classical, strong and copious, reflecting, in the most conspicuous point of view, the subjects over which it rolled, and sweeping before it all the slime of formal hesitation, and all the entangling weeds of chicanery. Yet, the servants of the crown were not so implicitly attached to the first minister as to acquiesce in all his plans, and dedicate their time and talents to the support of every court-measure indiscriminately. This was one material point in which Mr. Pelham deviated from the maxims of his predecessor, who admitted of no contradiction from any of his adherents or fellow-servants, but insisted on sacrificing their whole perception and faculties to his conduct and disposal. That sordid deference to a minister no longer characterised the subordinate instruments of the administration. It was not unusual to see the great officers of the government divided in a parliamentary debate, and to hear the Secretary at War opposing with great vehemence a Clause suggested by the Chancellor of the Exchequer." Smollett.



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poral in parliament assembled, return your majesty our humble thanks, for your most gracious Speech from the throne.

"The joy which all your faithful subjects feel on your majesty's safe and happy return into this kingdom is incapable of any addition; but it gives us, at this time, a peculiar satisfaction, as it is accompanied with a general peace, effectuated by your majesty's prudence and firmness, and with the concurrence of all your allies. On the successful conclusion of this great work, we heartily congratulate your majesty; and, with the utmost thankfulness, acknowledge your wisdom and indefatigable labours in carrying on the late just and necessary war, entered into for supporting the liberties of Europe, and securing the independency and most essential interests of this kingdom. We are equally sensible of the tender regard your majesty has shewn for your people, in the re-establishment of the public tranquillity.

"We cannot be ignorant of the many difficulties which must have attended this important and extensive negociation; and we look upon it as a great instance of your majesty's vigilant and active care for the public welfare, that it has been brought to perfection, in concert with, and with the concurrence of, so many powers, in so short a time.

"With hearts full of duty and affection, we offer our thanks to your majesty, for your paternal goodness, in considering with so much tenderness the burdens of your subjects; and in taking the very first opportunity to give them ease, and to enable them to reap the benefits of the pacification. Excited by your gracious example and our love to our country, we assure your majesty of our cheerful and hearty concurrence in all such measures as may tend to perfect what your majesty has so prudently begun, may improve our trade and commerce, promote quiet and harmony at home, and render the blessings of peace, under the Divine protection, general and lasting to your people. In doing this, we will never fail to have the utmost attention to the honour of your majesty's crown, the stability of your throne, and the safety of your kingdoms.

"We have a just sense of the distinguished behaviour of your majesty's forces by sea and land during the war. We look upon them as an honour and strength to their country; and we applaud that goodness which your majesty has expressed, in recommending such of them as cannot now be employed to the favour and protection of parliament. Your majesty's sentiments concerning the naval force of this kingdom are highly worthy of a king of Great Britain, who has the honour and interest of this nation entirely at heart; and the signal success that has attended it in the war, as well as the consequences to be derived from it for maintaining the peace, cannot fail to shew the necessity of giving the utmost attention to the support and encouragement of the fleet.

"Permit us, Sir, to make use of this happy occasion of approaching your royal throne, to give your majesty the strongest assurances of our inviolable duty and fidelity to your sacred person, and our zeal for the preservation of the Protestant succession in your illustrious House, the great bulwark of our religion and liberties. To these principles we will always stedfastly adhere; and we faithfully promise your majesty, to exert our utmost endeavours to support you in maintaining that repose which your majesty has restored to your kingdoms, as well as to preserve and cultivate the most perfect correspondence and union with the friends and allies of Great Britain, and to promote the glory and happiness of your reign."

*The King's Answer.*] His Majesty's Answer was as follows:

"My Lords;

"I thank you for this dutiful and affectionate Address. The satisfaction you have so unanimously expressed in the measures I have taken, is particularly agreeable to me; and you may be assured, that, both in war and in peace, my great aim has been, and always shall be, the advancement of the true interests of my people, and the support of my allies."

*Debate in the Commons on the Address of Thanks.**] The Commons having returned to their House,

Lord *Barrington* rose and moved, "That an humble Address be presented to his majesty, to return his majesty the thanks of this House for his most gracious Speech from the throne; and to congratulate his majesty upon his safe and happy return into these kingdoms; to acknowledge, with the utmost gratitude, his majesty's constant attention to the good of his people; and to congratulate his majesty upon the success of his endeavours for restoring

* From the London Magazine.

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peace to Europe, by the happy conclusion of a definitive treaty, in which all his majesty's allies have concurred, without reserve; whereupon we cannot but admire his majesty's wise conduct, in his having been able to reconcile and adjust so many jarring interests, and complete, in so short a time, this great and necessary work; to return his majesty our thanks for his great goodness and tender regard to his faithful subjects, in taking the first opportunity for reducing the public expences; and to acknowledge no less his majesty's wisdom in recommending to us œconomy, and the improvement of the revenue, so necessary in our present circumstances, not only for the lessening of the national debt, but also for the strengthening ourselves against future events; assuring his majesty, that we will not fail, on our parts, to pursue such measures, as shall appear to us most conducive to these salutary ends; to express our satisfaction at the notice his majesty has been pleased to take of the bravery of his forces, both by sea and land, an honour which their behaviour has most justly deserved; to acknowledge with pleasure the great importance of the successes of the fleet, and the necessity of maintaining it in proper strength and vigour; and to promise his majesty, that all due attention shall be paid to those brave men, who have signalized themselves in defence of their country, during the course of this war; to assure his majesty, that we will grant him such supplies as shall be judged necessary, for effectually securing the peace and quiet of his majesty's government, and for preserving the honour of the nation, by making good its engagements; and that, *in all* our deliberations and actions, our chief objects and study shall be the improvement of our commerce, the supporting and strengthening of the public credit, and thereby enabling his majesty to make this nation a flourishing and happy people, under the present auspicious government of his majesty, and that of his royal family, to future generations."

The hon. *Charles Yorke**, second son of Lord Chancellor Hardwicke, rose and seconded, in a very able speech, the motion of the noble lord.

Mr. *Robert Nugent* rose and said:

Sir; the practice of complimenting the ministers by way of an Address to our sovereign, at the beginning of every session, has obtained for so many years, that I despair of success in any opposition I can make to the Address now proposed. I do not therefore rise up to offer any amendment, but to declare in the most open manner my being dissatisfied with the greatest part of the noble lord's motion, which I think a great deal too long, and too particular. I should be as ready as any gentleman in this House to join in returning his majesty our unfeigned thanks for his most gracious Speech from the throne, and in congratulating him upon his safe and happy return to these kingdoms; but I cannot give my assent to the inserting of any words in our Address, which may imply the most distant approbation of the treaty of peace that has been concluded, because neither I, nor any gentleman in this House, can as yet have any parliamentary knowledge of that treaty, and because, from all the knowledge I have of it, I think it the worst of all the bad treaties England ever made. The conclusion of it may therefore have been necessary, but I shall never agree to call it happy; and from all the lights most gentlemen in this House can have, I am sure they cannot say, that this nation was at that time under any sort of necessity to conclude a peace.

I shall admit, Sir, that our allies the Dutch had been, by the pusillanimous conduct of their former government, brought into some danger; but their government was then changed, and was lodged in such hands as would have exerted the whole strength of that powerful republic, in the most vigorous and effectual manner. Though their strong town of Maestricht had been taken, which would have required some weeks, they had many other well-fortified frontier places, which the enemy must have taken before they could make an impression upon any vital part of that republic; and before half of them could have been taken, the Russian troops could have arrived, which would have made our army at least equal to the French, and furnished the royal commander with an opportunity he never had before, of fighting the enemy upon equal terms, in which case he

* MSS. Brit. Mus. 4326 B. H. Etough to the Rev. Dr. Birch, Dec. 6, 1748.

"The figure Charles Yorke made the first day of the session is an agreeable piece of news. Nothing can be more pleasing than such accounts of young men, who have the additional character of probity and virtue."

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might probably have obtained as complete a victory over the French, as he had before obtained over the rebels at the battle of Culloden; for I must observe, the more fortified towns the French had besieged and taken, the more they would have weakened their army, the farther they would have been removed from any safe retreat, and consequently their defeat would have been not only the more probable, but the more fatal.

The danger therefore, Sir, which the Dutch were exposed to, could not lay us under any necessity of concluding an immediate peace. It might have been a reason for our not insisting upon such honourable terms, or such a definitive treaty, as we might otherwise have done; but will any one say, that the terms were honourable, when we not only obliged ourselves to deliver up the only conquest we had made during the war, but gave hostages for the performance of that obligation? Can we call a treaty definitive, when no one of those points are so much as mentioned, which gave rise to the war between us and Spain? Can we say that all our allies have concurred without reserve, when it is so notorious, that both the queen of Hungary and king of Sardinia, our principal allies in the war, were forced to concur, because they saw us resolved to desert them if they did not? Can we admire the wisdom of our ministers in reconciling and adjusting so many jarring interests, when no such interests have been any other way reconciled, than by compelling our allies to give up every thing the French, or their allies, could ask? Sir, when I consider these things, I am astonished how the noble lord could think of offering such a paragraph as a part of our Address upon this occasion. If we agree to it, we shall become the scoff of all the courts abroad, and of all men of sense at home, who have any knowledge of foreign affairs.

Then, Sir, with regard to the next paragraph proposed, how can we pretend to say, that the ministers have taken the first opportunity to reduce the public expences, or that it has been done with unusual dispatch, when we know nothing of what public expences have been reduced, or at what time they were reduced? We may perhaps have heard something of this from our public news-papers, or from the tittle-tattle of our under-ministers, which is a worse authority; but neither of these, surely, can be a proper authority whereon to found an Address of parliament; and even from these we cannot say that those reductions, if any, have been made with unusual dispatch, for, I believe greater reductions were made, and made with as much dispatch, at the end both of king William's and queen Anne's war. Besides, I must observe, that as to our foreign subsidies, which are of all others the most grievous expence to this nation, most of them are of such a nature, that they neither have been nor can be reduced for a year or two to come, which ought to have been an argument for continuing the war a year or two longer, if we had the least prospect of better success; and consequently is an argument for our not being so ready to extol the happy conclusion of the peace.

As to the other part of this paragraph, Sir, by which we are to applaud the wisdom of our ministers in recommending to us economy, I can see no foundation for it in the Speech, which is always in this House supposed to be the speech of the ministers; for in no part of that Speech can I find that they have recommended any such thing to us: indeed, it would have been ridiculous if they had: it is our business to grant, it is their business and duty to manage what we grant with economy. Our being cautious and sparing in our grants, may in some sense be called economy, and it is a sort of economy which I wish we would practise more than we have done of late years; but it is a sort of economy that never was, nor, I believe, ever will be recommended to parliament by ministers, and by the present as little as by any of their predecessors.

What our ministers mean, Sir, by recommending to us the improvement of the Revenue, is something beyond my comprehension. I hope, they do not mean to desire us to impose any new taxes upon the people, or to increase any of the old, or to pass any more severe and dangerous laws for raising our taxes, than those we have now subsisting; and yet one of these they must certainly mean, or they mean nothing, because these are the only methods for improving the revenue, in which the parliament can have any necessary concern. There is, indeed, another method which the ministers have power to take without our concurrence, and by which the net produce of all our taxes might be very much increased; I mean that of reducing the number of officers employed in collecting the revenue, and

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diminishing the salaries of the rest. This, I say, is what the ministers may do without our concurrence, and what ought to be done; for I may venture to say in general, that there is no country in the world, where there is so little to do, and so much to be got, by serving the public. It is this that makes all people so fond of getting into public office; and it is this that gives force to corruption, and spreads it so universally among the people. Therefore, if we are resolved to preserve our independency and our seats in this House, for, I hope there are none within these walls that came here by corruption, we ought to think of this method for improving the public revenue; and if we find that our ministers do not soon go about it of themselves, we ought: I hope some future session will set on foot an enquiry into the business as well as salaries of all public officers, and compel our ministers by our authority to do what they may and ought to do without our concurrence; for what signifies our loading the people with taxes, when one half of the produce is eat up by the great number of officers, and the great salaries allowed by our ministers to those they employ in raising and collecting such taxes? But why should I say employ, when it is so well known that we have many officers with great salaries and perquisites, who have no employment, because they get some low fellow to do the whole duty of the office for one-tenth or one-twentieth part of the salary and perquisites?

Then, Sir, as to what the noble lord proposes with regard to the bravery of our troops both by sea and land, I shall most readily agree to celebrate it in our Address to the throne; but if we do, I think we should take proper notice of the conduct which rendered that bravery ineffectual by sea, except what happened the very last year of the war, and which by land made it turn to their own destruction, from the first massacre at Fontenoy to the last at La Val. No one will say, that this could be owing to any misconduct in the royal commander, therefore it could be owing to nothing but the superior numbers of the enemy, which our ministers ought to have known, and ought in time to have provided against; for war is not now to be carried on as it was in former days, when battles were fought with militia on both sides, just taken from the plough and brought to action, and when 10,000 brave men might perhaps put an army of 100,000 to flight, because when any one part of such a great army was routed, or thrown into confusion, the rest were generally seized with a panic, and ran away before the approach of danger: whereas, now that war is carried on with regular troops on both sides, the rout or confusion of one part of an army makes no impression upon the rest, unless it be to make them march up with the more speed to the relief of their companions; therefore an army much more numerous than that of the enemy is now almost sure of victory, if not sacrificed by some egregious blunder in their general. For this reason, if our ministers saw that it would be impossible for them to bring an army into the field, near so numerous as that of the enemy, they should have taken the advice of the Bible, which I hope they have read in their youth, though now perhaps they never look into it: they should, even before the battle of Fontenoy, have sent to the French king and desired conditions of peace, since they could not propose with 10,000 to meet him with his 20,000. If they had done this, they might, I believe, then have obtained as good a peace as they got at last, and would have saved the lives of some thousands of brave British subjects, who by their death did great honour to the courage, but very little to the councils, of their country.

I therefore think, Sir, that if this paragraph be allowed to stand part of our Address, we should conclude it in the following manner: "And as all due attention shall be paid, on our part, to the services of those gallant men, who have signalized themselves so gloriously in defence of their country, we hope a strict enquiry will be made into the causes, which rendered the events of the war so little answerable to the bravery of the troops employed." Such a conclusion as this would look something like the ancient spirit of our British parliaments; but as I think the whole paragraph, as well as the two preceding, ought to be left out, I do not hereby intend to propose any thing by way of amendment.

I come now, Sir, to what the noble lord has proposed as the last paragraph of our Address, and this I should readily agree to, if two short sentences were left out, the first of which is in these words, "through the course of the war." Is it possible for any gentleman to say, is it consistent with the honour and dignity of this House to say, that even at sea, we have had signal success through the whole

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course of the war? Surely, the taking of a few rich prizes, or a few single ships of war, cannot be called signal success. Have we had any other, except in the last year of the war? Therefore, we may declare ourselves truly sensible of the signal success, which in the last year of the war attended his majesty's arms at sea, and which our ministers might have made a much better use of in their negociations for peace, than they appear to have done. But when we reflect upon the unfortunate sea fight near Toulon, when we reflect upon the escape of the French fleet, to and from the West-Indies, during every year to the very last year of the war, can we with any decency say, that we are truly sensible of the signal success, which has attended his majesty's arms at sea, "through the course of the war?"

The other sentence in this paragraph, which I find fault with, is in these words, "by making good its engagements." I shall cheerfully join, Sir, in assuring his majesty, that we will grant such supplies as are necessary to preserve the honour of the nation, but I cannot add, by making good its engagements, before I know what those engagements are. The late treaty of peace is not yet laid before us, and therefore we neither do nor can know what engagements his majesty may have been advised by his ministers to enter into by that treaty. Shall we then oblige ourselves to make good those engagements when, for what we know, they may be such as must be attended with certain ruin to the nation?

Thus, Sir, I have delivered my sentiments upon the Address; but as I do not know how they may be received, I shall not conclude with any motion, because, if they seem to be agreeable, I do not question but some gentlemen, whose sentiments are the same with mine, will rise up and move for the proper Amendments; for otherwise, let the consequences be what they will, I must give my negative to the motion, which I shall do with regret, because I think some sort of an Address necessary by way of Answer to his majesty's Speech.

Mr. Solicitor General *Murray*:

Sir; the hon. gentleman was much in the right to begin with telling us, that he despaired of any success in the opposition he was to make to the Address proposed; for it is so modest, and all the expressions so general, that no just exception can be found to any one of them, especially as every gentleman knows, that in our future proceedings we are not tied down by any words, or expressions in our Address upon this occasion; and as it is a custom, which I may now call immemorial, to make some compliment to our sovereign, upon every article which he has been graciously pleased to mention to us in his Speech from the throne; as such compliments have always been made or moved for, the very first day of the session, they never were, nor, indeed, ever could be, founded upon what is called parliamentary knowledge, nor can such a knowledge ever be required or thought necessary. They are founded solely upon what his majesty has been pleased to communicate in his Speech, the truth of every part of which is, for that time at least, taken for granted; and if upon a proper enquiry, when we have all proper lights before us, and have from thence obtained a parliamentary knowledge; I say, if it should then appear, that any measure has been misrepresented in his majesty's Speech, we may with absolute freedom not only censure the measure, but censure and punish the ministers who advised such a misrepresentation.

After what I have premised, Sir, I believe it will be easy to answer the objections made by the hon. gentleman to any of the expressions proposed to be made use of in our Address; but first I must observe, that in stating those objections, the hon. gentleman gave me a good deal of pleasure, though perhaps he neither designed it, nor supposed he had done so: the whole tenor of his harangue was a sort of Anti-Oratory, for almost every word he said concluded, in my opinion, against what he, I believe, intended; which was a method of speaking so new to me, that I could not help being pleased with it. Now, Sir, as to the late treaty of peace, I know as little of it as the hon. gentleman does: all that either of us knows of it, I believe, is from the public news-papers; and if the articles be such as have been related by them, I must say, that I think it a better and more honourable peace, than could be expected by any one, who considered the situation in which the affairs of Europe were at that time. For my part, Sir, I am so far from thinking the peace a bad one, that I am surprised how the French came to offer, or agree to, such terms as they did. Gentlemen talk of our giving up the only con-



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quest we had made during the war: let us consider, what the enemy have given up. The French have given up all their wide-extended conquests in Flanders: they have given up near as much as cost us ten years of the most successful war we were ever engaged in, to take from them. And the Spaniards, in consideration of the two small duchies of Parma and Placentia, have given up the large duchy of Savoy, and the important county of Nice: so that from the concessions of the enemy one would really be apt to imagine, that we had been every-where victorious in the war, and that they were in the utmost danger of being undone.

Was it so, Sir? Does not every gentleman know it was not: we had for three years preceding met every year with a signal defeat, and every defeat was attended with the loss of whole countries, and many fortified towns. This, as the hon. gentleman rightly judged, was not owing to any misconduct in our generals, or to any want of bravery in our troops; but solely to the superior number of the enemies armies. How could this be provided against by our ministers? Will any one say, that this nation could, or ought to have furnished more troops than it did? But it will be said, our allies ought to have augmented their quotas: so they promised to do, and to these promises, which were never performed, our ministers trusted from year to year, till our allies the Dutch were brought upon the verge of destruction. Danger, Sir, has always a very different effect upon the imagination of those that are near to it, from what it has upon the imagination of those at a distance: the former view it through the right, the latter through the wrong end of a telescope. Gentlemen who were sitting safely here in London, or at their seats in the country, may think the Dutch were in little or no danger; but when we talk of the necessity of making peace, we must consider in what light the Dutch themselves viewed the danger they were in. Suppose, for as I have no knowledge of the fact, I can only suppose, they thought the danger so great, as to threaten agreeing to a neutrality, if we did not accept of the terms then offered by France. If they had agreed to a neutrality, they must have withdrawn their troops from the allied army; in which case, even after the arrival of the Russians, our army would have been much inferior in number to that of France; and though I only suppose this, yet I must say, that I think the supposition highly probable, for the Russians were then at such a distance, that they could not have joined our army before the month of July; and considering how quickly the French had reduced all the towns in Flanders which they could invest, the little fortresses of Stevenswaert, Roermont, and Venlo, together with Maestricht, might probably have been reduced before the arrival of the Russians; after which the very being of that republic would have depended on the event of one battle, which is a risk no wise nation will ever chuse to run, if it can by any means be avoided; and as the French court could not but be sensible of this, we cannot too much admire his majesty's wisdom in bringing them to agree to such reasonable terms.

But this danger, to which our allies the Dutch were exposed, was not the only danger, Sir, that made a peace necessary for us. Surely, gentlemen have not forgot the situation in which our public credit was at that time, and the danger it was in of being entirely blown up. Do we not remember, that all our public funds, except Bank and East-India, were greatly under par, and hardly any hopes of the whole money's being paid in upon the new subscription? From this situation, I think, I may with reason presume, that if the peace had not been concluded at the very time it was, our public credit would have been entirely blown up; and in that case, we could not have supported the war to the end of that year, much less for ten or a dozen years longer, which we probably must have done, before we could have recovered from the enemy all that they had then conquered, even supposing the war had, from the moment the Russian troops arrived, taken a turn in our favour, and had continued successful to the end.

I think I may now conclude, Sir, that the noble lord's motion contains nothing relating to the peace, but what we may, from the knowledge we have of it, agree to, especially as that knowledge has been confirmed by what his majesty has said of it in his Speech; and as we cannot, by any thing we now say of it, be bound up from censuring both the treaty and treaty-makers, in case, upon a mature consideration, after it has been laid before us, we should think, that it deserves such a censure. But I am sure, nothing the hon. gentleman has yet been pleased to object to it, can afford ground for such a censure.

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The points in dispute between Spain and us, are points merely relating to commerce, which are never settled by a general treaty, but left to be adjusted afterwards by a particular treaty of commerce; therefore this can be no objection against the treaty being a definitive one; and if our allies have all acceded to it without reserve, surely we may do so, without entering into any disquisition, by what means they were brought to accede; for all treaties of peace are founded upon the parties at war being respectively convinced—that they can do no better. This was the case of the late treaty, and this it was that made France give up all her conquests, and Spain passing by the greatest part of her pretensions in Italy; therefore I was surprised to hear the hon. gentleman say, that no jarring interests had been any other way adjusted, than by compelling our allies to give up every thing our enemies could ask.

As to what the hon. gentleman was pleased to say against the next paragraph of the Address, it is rather criticising than arguing, Sir. Surely, we have no occasion for parliamentary knowledge to say, that the public expence has been reduced, when every gentleman knows, that many whole regiments have been already disbanded, and many large men of war put out of commission; and as the peace was signed but last month, we may say, that this reduction has been made with unusual dispatch; for, whatever it is in this, it is not usual in other countries. His objection against the word Œconomy, is another objection of the same kind; for though his majesty in his Speech has not made use of that word, he can mean nothing else by recommending to us the improvement of the public revenue, which may be effectuated several ways by the œconomy of our ministers. If there be any of our present taxes, which cannot be duly raised by the laws now in being, it is our business and our duty to contrive and establish such new methods as may be effectual; and if there be any of our taxes which cannot be raised without a great expence, and any new tax could be thought of, which would produce as much, and could be raised at a much less expence, it would be œconomy in us to abolish the old, and establish the new in its room; or, if by one method of raising money for the public service, we must pay a premium as well as interest for the money wanted, and another method could be contrived, by which we might raise the money wanted, at the same interest, without any premium, would it not be œconomy in us to chuse the latter rather than the former? The word Œconomy may therefore be applied to our conduct in raising, as well as to the conduct of the administration in disposing, of the public money; and if the hon. gentleman thinks it necessary, I am persuaded, our present ministers will not be against our enquiring, at a proper season, into the business as well as salaries of all the officers concerned in collecting or managing the public revenue.

I was glad to find, Sir, that the hon. gentleman, in the humour he seemed to be in, agreed to our acknowledging the bravery of our troops; but I must desire gentlemen to consider, whether what he proposes to add to this acknowledgment, would not look something like a remonstrance, and consequently, would be very improper to be made a part of our Address; for, if it should be thought necessary to enquire into the causes which made the events of the war no way answerable to the bravery of our troops, that enquiry may hereafter be set on foot whenever we please, though nothing be said of it at present.

As to what the hon. gentleman proposes, Sir, with regard to the last paragraph, I believe, it will appear, that he is not more lucky in his subtractions than in his additions. Was not the destruction of the enemy's commerce of great consequence to this nation in particular, as well as to the war in general? Was not the protection of our own commerce, by destroying the enemy's privateers, of great consequence? In both these have we not had great success during the whole course of the war? Can it be any objection to our acknowledging this, that now and then a single ship, or a fleet of ships, escaped us in such a wide ocean as that betwixt Europe and America? Was not the reduction of the island of Cape Breton, which was properly a naval expedition, a piece of signal success? Had not we signal success at Porto Bello and Chagre? Even at Carthagena we had signal success, so far as related to the naval part. And though we had not all the success that might have been expected at Toulon and upon some other occasions, he cannot deny our having had signal success at sea, through the whole course of the war: the enemy were so sensible of it, that I am convinced it was what forced them to agree to reason-

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able terms of peace, notwithstanding their signal success upon the continent of Europe.

To leave out these words would therefore, in my opinion, be a neglect of what we owe to Providence, as well as to his majesty; and as to the other words proposed to be left out, the hon. gentleman certainly forgot, or did not attend to the words in his majesty's Speech, to which these words relate, otherwise he would not have made any objection to them. His majesty, in his Speech, desires us only to grant such supplies as may be requisite for the current service, for our own security, and for making good such engagements as have been already entered into, "and laid before us;" therefore, what is proposed in our Address, by making good the nation's engagements, can relate to none but such as have been laid before us, and of such we may properly enough be said to have a parliamentary knowledge: we not only know them, but we have approved of them, and consequently could not refuse to make them good, though these words were entirely left out of our Address.

I hope, Sir, I have sufficiently answered every objection made by the hon. gentleman against what my noble friend has been pleased to propose to us; but before I sit down, I must observe, that it might be attended with very pernicious consequences, should we be less full, or less dutiful in our acknowledgments to his majesty upon this occasion, than upon any former. We have still several points relating to our commerce and plantations to settle with France as well as Spain: points which could not be, and indeed never are settled in a general treaty of peace; and yet points which are of the utmost consequence to this nation. How shall we obtain satisfaction as to any of those points? No one, I hope, expects, that we can obtain it by favour, which is a motive that is never of any weight in negociations between independent nations. In all such, fear or national interest are the only two motives of a public nature that prevail. But it is the national interest of France, and of Spain too, during her union with France, neither to give us satisfaction, nor to do us justice. Fear then must be made to operate upon both: our ministers must threaten to renew the war, if they refuse to settle those points to our satisfaction. Can such threatnings have any effect, if they suppose that there is like to be a disunion between his majesty and his parliament? And if we should be less full or less dutiful in our acknowledgments to his majesty, than has been usual of late years, would not both the courts of France and Spain have good ground for such a supposition?

This consideration will, I hope, Sir, induce even the hon. gentleman himself to give up the critical remarks he has made upon the Address proposed; for that they will have any weight with others, I do not in the least fear: but I should wish to see our Address upon this important occasion unanimously agreed to.

Dr. *George Lee:*

Sir; if the hon. gentleman despaired of success in his opposition to the Address moved for, it was not because he thought his opposition could not be supported by sufficient reasons, but because he had good ground to believe, it would not be supported by sufficient numbers; for though all questions must, in this House, be determined by numbers, and I shall at all times be ready to submit to the opinion of the majority, yet I cannot say, that reason and numbers are always of the same side of the question in this assembly, nor, I believe, in any other. I shall agree with the hon. and learned gentleman who answered him, that we are not foreclosed by any thing we can say in our Address upon this occasion; but for the sake of the dignity of the House, we should take care not to give a seeming approbation in our Address to any measure, which we have reason to believe will deserve our censure, when we come afterwards to enquire into it more particularly; and this, I am convinced, will be the case, with respect to the treaty of peace so often mentioned in this debate.

As to that treaty, Sir, I shall, allow, that every thing that has been said either for or against it, is against order, because the treaty itself has not yet been laid before us; but if in this we have trangressed our orders, the gentlemen who moved and seconded the Address are to answer for it, because, if they had not proposed the treaty being mentioned with such encomiums in our Address, I am persuaded, no gentleman would have thought it worth his while to take any notice of it upon this occasion. For my own part, Sir, I shall freely own I know nothing of it, and therefore shall not pretend to pass any judgment relating to it; but I have



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seen a pamphlet, which is said to contain a true copy of all the articles of that treaty; and if that pamphlet be genuine, I will aver, that there is not one British article in it, and that it is the most ruinous and the most dishonourable treaty we ever made. Instead of being a definitive treaty, I foresee, that, like what the learned gentleman called Anti-Oratory, it will produce an effect quite contrary to what was intended: I mean, if the makers of it on our side had any intention except that of getting any how a peace; for I am apt to suspect, that this was their only intention, and I shall presently give good reasons for my suspicion.

But first, Sir, I must examine some of the arguments made use of by the learned gentleman for proving, that this treaty was not only honourable but necessary, and much better than could well be expected. In order to settle this point, we should consider what each side had to hope for, and what they had to fear, from a continuance of the war; and first, with regard to the French and their allies. As to the French themselves, they could not so much as hope for any addition of territory upon the side of Holland; for if they had pushed their conquests much farther on that side, and thereby raised a suspicion that they designed to appropriate the whole provinces of the Netherlands to themselves, it would have united the Germanic body in a hearty and vigorous confederacy against them. The king of Prussia, and some other princes of Germany, may like well enough to have the French for an ally, in order to prevent their being oppressed by the House of Austria, but none of them would like to have them for a master; therefore they will always unite when they suspect France of any such design; and there is nothing that nation has reason to fear more than a hearty union of the Germanic body against her.

Again, Sir, on the side of Italy, what had France to hope for? Nothing: for if she had in the least discovered a design to appropriate to herself any territory in that country, it would have detached Spain from her alliance. But what had she to fear? An attack upon her richest and least defensible provinces, if the war had proved unsuccessful for her on that side. And then, with respect to the West Indies, France had every thing to fear, and nothing to hope for; because, had we made a proper use of our superiority at sea, all the French colonies in that part of the world, would have been soon reduced to such distress, as would have made them submit to us without a stroke, in order to prevent their starving.

After having thus considered what France had to hope and fear from a continuance of the war, I need not, I think, Sir, mention her allies; for without her assistance they had every thing to fear, and nothing to hope for; therefore I shall proceed to consider what was to be hoped or feared on the other side. As to this nation, it is plain we had nothing to fear but a stop of our public credit, which I shall afterwards consider; and as we were masters of the ocean, we had almost every thing to hope for: the sole possession of North America: the acquisition of all the French sugar islands, with Spanish part of Hispaniola; for if the French part had once submitted, the other would have followed of course; and, in short, the engrossing to ourselves almost the whole trade of Europe. Then, as to the king of Sardinia, and the empress queen of Hungary, with regard to her possessions in Italy, experience had shewn, how difficult it was for the French to send armies into Italy, or support them there, whilst we were masters of the Mediterranean; so that neither of them had much to fear, and both a great deal to hope for; and the latter could fear nothing as to her dominions in Germany.

I now come, Sir, to consider the situation of the Dutch; and as to them, I shall grant, that they had the most to fear, and the best reason to agree to the terms offered by the French; for I must say, that their interest seems to be the only interest that was considered by our treaty makers, and to that they sacrificed not only the interest of this nation, but of every one of our allies. The Dutch were indeed in some danger, but that danger was not so pressing as would have induced them to desert their allies, and agree to a separate peace, especially considering the change that had happened in their government. The Russian troops must certainly have arrived before the French could have reduced Maestricht, and all their other fortresses upon the Maese; and suppose, after the arrival of the Russians, our army had been defeated, that defeat could not have been so total, considering how near they were to a safe retreat, but that it might have defended such a country as Holland, till more troops could have been provided from Germany; whereas, had



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the French been defeated, it would have been impossible for them to have faced our army again that campaign, and still more impossible for them to have provided sufficient armies against the next, because one total defeat, considering the misfortunes they had before, and probably might that summer have met with at sea, would have entirely ruined the credit of their government.

The Dutch, therefore, had not so much to fear as has been suggested by the learned gentleman; but I shall at the same time grant, Sir, that they had not much to hope for, more than was granted by the peace. By the peace they got all their own territories restored, and the French as far removed from their frontier as they were before the war began. This was a great deal for a new government just introduced, and was probably thought sufficient for the establishment of that government; and this, with another reason I shall presently mention, was, I believe, what induced our treaty makers to accept of such dishonourable terms. But after taking this view of the situation of the affairs of Europe, I believe no gentleman, who is altogether unbiassed, will say, that there was any true British reason for our accepting of such terms; and as little will any such gentleman be surprized at the French offering to make all the restitutions they did: but in summing up the restitutions made by France and Spain, and the considerations given by us and our allies, I must put the learned gentleman in mind, that with respect to the latter, he forgot the duchy of Modena, and the freedom of the British trade and navigation in the American seas, as well as the reparation to our South-Sea Company and merchants, for their losses by the Spanish seizures and depredations.

I was surprized, Sir, to hear the learned gentleman say, that the freedom of our trade and navigation in the American seas, and the losses of our merchants and South-Sea Company, were articles that could not be brought into a general treaty of peace, but were to be settled afterwards by a treaty of commerce: I say, I was surprized to hear such a doctrine advanced, when these two articles were the very causes, and the only causes, of our war with Spain; and the first of such consequence, that we ought to have had it yielded before we submitted so much as to treat of a peace: even as to the last, there ought to have been a stipulation in the general treaty, that they should be made good by Spain, and then the quantum might have been afterwards settled by commissaries. But by concluding a treaty of peace without mentioning either, we have tacitly given them both up, and this we shall find the Spaniards insisting on, if either should ever be mentioned in any future negociation: they will now say, that we have given them a general release as to all their former seizures and depredations; and they will say, that we have agreed to that interpretation which they put upon former treaties before the war began, in consequence of which they have now an acknowledged right to search our merchant-ships in the open seas, and to seize and confiscate ship and cargo, if any thing of what they call contraband goods be found on board.

I shall, therefore, never agree, Sir, to call our late Treaty of Peace a definitive treaty; for if it is, we have not only for ever released our claim upon the Spaniards for their late depredations, and for seizing, contrary to treaty, the effects of our merchants in their dominions, at the beginning of the war; but we have given them at least a tacit right to search, seize, and confiscate our merchant ships in the American seas, whenever they please: nay, I do not know but that, if we continue in this yielding disposition, they may send their guarda costas into the British channel, to search every British ship returning from our colonies or plantations, and to seize all such, on board of which they shall find any gold or silver, or logwood, or, in short, any merchandize that may be said to be the produce of the Spanish dominions in America.

It is, therefore, evident, Sir, that with regard to this nation, the late Treaty of Peace was not only dishonourable, but ruinous; and as to its being necessary, I have shewn, that according to the then situation of the affairs of Europe, a peace was more necessary for the French and their allies, than for us and our allies: but, says the learned gentleman, an immediate peace was necessary for us, because our public credit was in danger of being entirely blown up. Sir, if the public credit had been blown up, it was entirely owing to some of our ministers endeavouring to make a job of subscription for the benefit of themselves, their tools and favourites. As every former subscription had sold for a premium, they imagined the last would do the same; there-

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fore they resolved to engross the greatest part of this new subscription to themselves and favourites, though many of them had hardly credit enough to borrow money to make the first payment upon the large sums they were allowed to subscribe for. This made our real monied men keep back, because they resolved not to be imposed on by this piece of ministerial job work, and because they foresaw, that the subscription must fall to a very great discount. It was not therefore the public credit of the nation, but the private credit of most of these jobbing subscribers, that was in danger of being entirely blown up; and this, I believe, would really have been the consequence, if a peace had not been suddenly clapt up.

I am far, Sir, from accusing all our ministers of being concerned in this piece of job-work, but too many of them, I am afraid, were; and to save themselves and their friends from this impending ruin, was their sole intention, and the sole cause of their making use of all their interest, and all their address, to get a peace agreed to, which the nation ought to have rejected with disdain, and which both the empress-queen and the king of Sardinia, would have rejected, if the Dutch and we had not compelled them to agree to it.

Upon the whole, Sir, from all the knowledge I have, or can have, of the late treaty, I have reason to think, that when it is laid before us, and properly taken into consideration, it will deserve a most severe censure, and consequently, for decency's sake we should avoid saying anything in praise of the treaty, or of the conduct of the treaty-makers, in our Address. And as to the reducing of the public expence, we may, for compliment's sake, say, that it has been done with dispatch; but I think we cannot say with unusual dispatch unless we had examined what was done upon the conclusion of the peace of Ryswick, and that of Utrecht, which, I confess, I have not; for the word 'unusual,' in our Address, must be understood to relate to what has been done in this kingdom, and not to what has been done in any other.

Then, Sir, as to the word Œconomy, the learned and ingenious gentleman has been at great pains to shew, that it may relate to our conduct in raising, as well as to the conduct of the ministers in managing, the public revenue; but with all his ingeniousness, he will have difficulty to make a common reader think, that improvement means Œconomy; and as his majesty has not made use of the word Œconomy in his Speech, I think we should not make use of it in our Address; for it will look a little odd in us to applaud his majesty's wisdom in recommending to us what no common reader can find he has recommended.

As to what my hon. friend proposed to be added to our encomium upon the bravery of our troops, and which the learned gentleman said would look like a remonstrance, I am sure, Sir, he understands the nature of a remonstrance better than to form any such opinion of it. An enquiry can never be a remonstrance, much less can our saying that we will enquire, be called a remonstrance, though an enquiry may, and has often been, a foundation for a remonstrance; and as his majesty has in his Speech insinuated, that the events were not answerable to the bravery of our troops, what my hon. friend has proposed, will certainly be a proper return to that part of his majesty's Speech. But whether we agree to what he has proposed or no, I hope, we shall enquire, before this session be at an end. In duty to the royal commander, we are bound to enquire, that we may remove all blame from him, who, I am convinced, is blameless; and if the blame lies at the door of our allies, as has been insinuated in this debate, our ministers ought, for their own sakes, to promote such an enquiry.

Lastly, Sir, with regard to our promising to preserve the honour of the nation, by making good its engagements; I think, we should either leave out these last words or we should add, "that have been already laid before us;" for if I were to make a general promise in writing, which I intended should be limited, I should not like to have the limitation depend upon any words in a separate and distinct writing; and when I am promising in the name of another, which is the case of every gentleman here, I should be at least as cautious as I could be when I promise upon my own account.

I shall conclude, Sir, with taking some notice of the argument made use of by the learned gentleman, for inducing us not to be less full or less dutiful in our acknowledgments to his majesty upon this occasion, than upon any former; for, said he, we have several points of the utmost consequence to this nation still to settle, both with France and Spain; and if we should

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now be less dutiful in our Address than usual, it would argue a disunion between his majesty and his parliament, which would prevent our being able to obtain any satisfaction as to those points, because neither France nor Spain would be afraid of any menaces our ministers could make use of. This argument, Sir, has always been made use of, for all the sycophant addresses ever made by parliament to the crown; but I must deny the principle upon which it is founded. If we should now be a little more shy in our compliments than usual, it would argue no disunion between his majesty and his parliament: it would, indeed, shew, that the parliament did not approve of the conduct of our pacific ministers; and for this very reason I am for our being as shy as possible in our compliments upon this occasion.

This, Sir, may, to some, look like a paradox, but it is easily explained. Both France and Spain know, that we are again got under the same administration that for 20 years submitted to all the insults and indignities that they, especially the latter, could put upon us: an administration that, by their blundering negotiations, laid the foundation for that claim which Spain set up, of a right to search and seize our ships on account of contraband goods, without ever once insisting, that there can be no such things as contraband goods, except in time of war: and an administration that often threatened, but never durst venture to begin hostilities, or even reprisals, till they were forced to it by parliament. Can we expect, that the threats of such an administration will be regarded, or that we can gain satisfaction as to any point by their menaces? No, Sir: but the French and Spaniards will expect, that they may, as they did heretofore, continue to negotiate, and in the mean time to plunder our merchants, and encroach upon our rights. The hon. gentleman says, we can expect no satisfaction by favour, but by fear: in this, I entirely agree with him; but, considering the nature of the administration we are now under, I say, the only way to impress this notion of fear, is for the parliament to shew, that it will not be subservient to the will of our ministers, but that it will compel them, as it did formerly, to re-commence hostilities, if we do not receive immediate satisfaction, as to the points remaining in dispute; for, notwithstanding this boasted definitive treaty, it must be allowed, that every point relating to this nation, still remains in dispute, except that of our giving up Cape Breton; and I shall join with the learned gentleman in saying, that they are points of the utmost consequence to our trade and plantations. Nay, I will go further; I will say, that they are points that cannot admit of a long discussion; and to prevent such a discussion, we cannot do better, than to shew, by our present Address, that we do not altogether approve of the conduct of our present pacific administration. This, Sir, is my opinion, but I shall not trouble you with any motion; for, with regard to the success of any opposition, I believe, I must wait with regret, till the distresses of my country have operated a little more than they do at present; and I am afraid, they will soon operate more than any arguments that can be made use of by me, or by any man breathing.

Mr. *Pelham*:

Sir; I hope no gentleman is of opinion, that we ought not to present any Address to his majesty upon this occasion; and, as those who do not seem pleased with what my noble friend has proposed, have neither offered any thing in lieu of it, nor moved any amendment, I shall not at present take up much of your time; for, I think, the best advice that can be given upon this occasion, is that of a very famous poet,

——Si quid novisti rectius istis,
Candidus imperti: si non, his utere mecum.

But as much oratory, or anti-oratory, call it which you will, has been used in this debate, to put us out of humour with what has been always deemed a very good thing, I shall, I hope, do a service to some gentlemen present, by endeavouring to send them home in a better humour. Peace, I think, is generally deemed a desirable thing for a nation, especially a nation that subsists chiefly by trade and commerce; and it must certainly be a bad peace indeed, if it be worse than a successless war. In this light we should examine the peace lately concluded; for, with regard to the war thereby put an end to, I believe every gentleman will allow, that on our side, by land at least, it was not only successless, but very unfortunate: and, with regard to what might have happened afterwards, if the war had been continued, gentlemen may, if they please, build castles, and imagine great things, but I am afraid, the event would

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have shewn, that they had imagined vain things; for, let gentlemen say what they will, no oratory can persuade me, that of two parties engaged in war, that side has not the most to fear, that has been oftenest defeated.

The hon. and learned gentleman, Sir, who spoke last, and who was at so much pains to shew, that the French and their allies had more to fear from a continuance of the war, than we had, founded the whole of what he said upon a supposition, that the Russian troops might have arrived at our army, before the French could have penetrated into Holland, or forced the Dutch to agree to a separate peace; but this, I think, is a postulatum which no one will grant, who considers the situation of affairs at that time, and the terms offered by France, even as they appeared from our public Gazettes; for as we have no other authorities now before us, we can speak from them only; and as those we had in this country, were generally too favourable to our own side of the question, we may, with these allowances, reckon, that the French would have been masters of Maestricht by the middle of May, and that we could not have expected the Russians, who had not reached Silesia at the time the preliminaries were signed, before the end of July; so that after the reduction of Maestricht, the French would have had ten weeks to make their way into Holland, before we could have had an army sufficient to risk a battle.

Let us next consider, Sir, what obstructions the French had in their way to the Hague: the little towns of Stevenswaert, Roermont, Venlo, and the Greeve, were the only fortresses they had in their way; for as to the city of Nimeguen, the fortifications were so much out of repair, and it would have required such a numerous garrison, that it would have been madness to have thought of defending it, because the garrison must soon have been made prisoners of war, and consequently would have been so many men lost to our army. The French had, therefore, only the four little towns I have mentioned, to make themselves masters of; and from the fate of Menin in Flanders, we may judge how long they could have held out. Menin, Sir, was one of the strongest little towns in Flanders, and as well fortified as any of the four I have mentioned, yet the French took it in six days open trenches; and, indeed, they had such a numerous train of artillery, and both their battering cannon and mortars of such a prodigous calibre, that no ramparts could stand against them. We may, therefore, reasonably suppose, that in six weeks time at most, they would have made themselves masters of these four towns; and surely they might have been at the Hague in less than four weeks more.

We may therefore, Sir, conclude, that before the Russians could have joined our army, the French must have forced the Dutch to agree to a neutrality, or they must have made themselves masters of the Hague, the Dutch seat of government; and this they might have done without giving an alarm to any prince in Europe, because the moment they entered the Dutch provinces, they would certainly have published a manifesto, declaring, that they had no intention to conquer and keep any of the Dutch territories, but that their design was only to restore the commonwealth, and to prevent the liberties of the Dutch from being oppressed by the stadtholder and his party, supported by the English; in which case they would have got a powerful party among the Dutch to have declared for them; and that party, as soon as they had got themselves re-instated in the government of their country, would probably have joined the French against us.

In either of these cases, Sir, what advantage could we have reaped by the arrival of the Russians? If the Dutch had agreed to a neutrality, which was the least of the two impending evils, they must have withdrawn their troops from our army, which would have made it as much inferior to the French, after the arrival of the Russians, as it was before. Nay, they must have given our army notice to depart their territories, and where it must have gone, I am at a loss to determine; for I doubt much if any of the princes of Westphalia, or of the Lower Palatinate, would have given it leave to sojourn any time in their dominions; so that it would have been reduced to a most unfortunate situation, and yet this situation it would, in my opinion, have been certainly reduced to very soon, if the preliminaries had not been agreed to; for, considering the terms offered by France, I am fully convinced, that if they had not been accepted of, even the then government of Holland would have agreed to a neutrality, and would have pleaded for their excuse, the obstinacy of the queen of Hungary in refusing to deliver up, but for one life only,

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the little duchies of Parma and Placentia, and the obstinacy of this nation in refusing to restore the barren and useless island of Cape-Breton. I say, barren and useless; for in its own nature it is barren, and to us it can never be of any service, though it will always be of great use to the French, as long as they are possessed of Canada, or have any fisheries upon the coasts of Newfoundland.

I hope, gentlemen are now convinced, Sir, that considering the situation of affairs at the time the preliminaries were concluded, the terms of peace are as good, or rather better, than could be expected; and I believe, the French were extremely sorry at their being accepted; for if they had been rejected by us, the Dutch, for their own preservation, would have entered into a separate treaty, and upon getting their own territories restored, and some additional parts of Flanders and Brabant made over to them, by way of a barrier, they would have agreed to leave the French in possession of all the rest of the Austrian Netherlands. If the Dutch had agreed to this, I believe, it would not have been possible for us, with the assistance of the House of Austria alone, to drive the French out of Flanders; and how dangerous would it have been for this nation, to leave the French in quiet possession of the whole coast over against the southern and south-east part of this island, from the Thames mouth to the Land's end in Cornwall.

I can, therefore, see no reason why gentlemen should raise so many objections against the very general expressions in our Address, relating to the late peace: and if ever the hon. and learned gentleman should be in my place, which it is probable he may soon be, he will then find how difficult it is to procure money for supporting such a war, or to give a general satisfaction by any terms of peace; for few men know, and fewer consider, the circumstances and views of foreign nations; but every one that does, will allow, that conjunctures may happen, when it may be prudent for this, or any other nation, rather to submit to bad terms of a peace, than to begin, or obstinately persist in, an unequal war; for as circumstances are daily changing and shifting, a new conjuncture may happen, when the injured nation may begin a war with advantage, or procure a redress of all its wrongs without the risk of a war.

As to our talking of an enquiry into the causes, that rendered the events of the war so little answerable to the bravery of the troops, whether it might deserve the name of a remonstrance or no, I am sure, Sir, it would be very improper in an Address upon this occasion: and as we have at present no lights before us, it would be contrary to all methods of proceeding in this House, to determine the question, whether such an enquiry be necessary or no; for no enquiry should ever be entered into, by this House, without some necessity. I shall readily acknowledge, Sir, that we owe a great deal to the royal commander of our armies: to him we owe our being this day assembled in this House: to him the nation owes its liberties, its religion, and every thing that can be dear to a people: but no duty we owe to him can require our entering into such an enquiry as has been mentioned; because no man, either abroad or at home, ever blamed, or so much as suspected his conduct. The cause of our misfortunes is pretty well known; almost every man that knows any thing, knows, that they were solely owing to our troops being overpowered by the multitude of our enemies; and every man knows, that the cause of this is not to be ascribed to any neglect or deficiency in this nation; for upon every occasion we furnished more than our quota of troops, of money, and, in short, of every thing that was requisite for commanding victory. Therefore, I cannot see what purpose it would serve, for this House to enter into any such enquiry; but at present I shall say no more of it, because, if a motion should hereafter be made for such an enquiry, I shall then have an opportunity to enlarge more properly upon the subject.

As to the other amendments, Sir, that have been talked of, though not moved for, they are rather criticisms than objections; and, as I do not like to deal in criticism, and am very indifferent whether they be agreed to or not, I shall give the House no trouble about them. But before I sit down, I must take some notice of the learned gentleman's paradox, and the distinction he made between the king and his ministers, as if there might be a disunion between the parliament and the ministers, without any disunion between the king and his parliament. According to this doctrine, Sir, there could never be a disunion between the king and his parliament; for the parliament never expresses any disunion with the king: even

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in king Charles I's time, the parliament always expressed a great regard for their sovereign, though at last, when properly modelled for the purpose, they severed his head from his body. Therefore all foreign nations, when they see a disunion between the parliament and the king's ministers, will suppose it to be a disunion between him and his parliament, and will treat both him and the nation accordingly; for they have the greatest authority to suppose that a kingdom divided against itself cannot stand.

For this reason, Sir, we should be at all times extremely cautious of giving foreign courts any reason to think that there is, or is like to be, a disunion between us and the king's ministers. Whilst a cordial union seems to subsist, I believe every foreign court in Europe will be cautious of doing us a real injury. Though the court of Spain may not, perhaps, be prevailed on to give up, in express terms, their pretended right to search and seize all ships they suspect of having carried on an illicit trade upon their coasts in America, no more than we would give up our right to search and seize all ships upon our own coasts, which we suspect of being concerned in the unlawful exportation of our wool; yet, while we are united amongst ourselves, I am convinced, the court of Spain will take care not to allow their guarda costas to make any unjust use of this right. If they should do otherwise, whatever may have happened under any former administration, I believe, the nation will find that under the present, they will not be permitted to do so with impunity; and till the contrary appears, I think, the parliament ought not to testify any disunion even with the king's ministers; for which reason, I hope, the Address now proposed will be agreed to.

*The Commons' Address of Thanks.*] Notwithstanding the above Debate, the Address, as originally moved for, was carried without a division, as follows:

"Most Gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return your majesty our unfeigned thanks for your most gracious Speech from the throne; and to congratulate your majesty on your safe and happy return to these kingdoms.

"We acknowledge, with the utmost gratitude, your majesty's constant attention to the good of your people; and beg leave to congratulate your majesty on the success of your endeavours for restoring peace to Europe, by the happy conclusion of a definitive treaty, in which all your allies have concurred without reserve; and we cannot, on this occasion, but admire your majesty's wisdom and conduct, by which you have, in so short a space of time, reconciled and adjusted so many jarring interests, and completed this great and necessary work.

"Permit us, Sir, humbly to return your majesty our thanks for your tender regard to your faithful subjects, in taking the first opportunity to reduce the public expences, which has been done with unusual dispatch; and we acknowledge equally your majesty's wisdom in recommending to us œconomy, and the improvement of the revenue, both absolutely necessary in our present circumstances, in order to lessen the national debt, ease your people, and strengthen ourselves against all future events; and we assure your majesty, that we will omit nothing which may conduce to those important and salutary ends.

"It gives the highest satisfaction to your faithful Commons, that your majesty has been graciously pleased to take notice of the bravery of your forces by sea and land, an honour their behaviour has most justly deserved; and we do assure your majesty, that all due attention shall be paid to the services of those gallant men, who have signalized themselves so gloriously in defence of their country.

"We are truly sensible of the importance of that signal success which has attended your majesty's arms at sea, through the course of the war, and are fully convinced how necessary it is to maintain our fleets in perfect strength and order, even in times of the most profound peace. Your faithful Commons beg leave humbly to assure your majesty, that they will grant such supplies as are necessary to secure effectually the peace and tranquillity of your majesty's government, and to preserve the honour of the nation, by making good its engagements; and that the chief objects of our consideration shall be, what your majesty has so graciously and wisely recommended to us, the improvement of our commerce, the supporting and strengthening of public credit, and the cultivation of the arts of peace: that your majesty may be enabled to gratify your royal inclinations, by making this nation a

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flourishing and happy people, under your auspicious government, and that of your royal family, to future generations."

*The King's Answer.*] To which Address the King gave this Answer:

"Gentlemen;

"I thank you most heartily for this very affectionate Address. You may rely upon my ready concurrence with you in the execution of all such measures as will relieve my people, as soon as possible, from the burthens which the exigencies of war have laid upon them, and procure to them the blessings of a safe and lasting peace."

## 1749.

*Debate in the Commons on a Motion for Papers relating to the Treaty of Hanau.*] January 31, 1749.

Lord *Doneraile* rose and said:

Sir; as this house is the great inquisition of the nation, there is a duty incumbent upon us, which, I hope, we never shall neglect, and that is, to attend to all popular murmurs, and to enquire whether they proceed from a real or imaginary cause, in order that, if we find the cause real, we may remove it if possible, and punish those that have been the authors of it; or that, if imaginary, we may give satisfaction to the people, by convincing them that their murmurs are groundless. This is a duty we owe the people who have chosen us as their representatives; a duty we owe our sovereign, who has a right to expect from us a speedy and true information of every thing, that may tend towards alienating from him the affections of his subjects; and the performance of this duty was never more necessary, or of greater consequence, than upon occasion of the peace lately concluded.

A peace we have got, Sir, but it is a peace that no man, I believe, will say, is either so honourable or so advantageous for this nation, as might have been reasonably expected at the beginning of our war with Spain. The people murmur loudly against it, therefore it is our duty to enquire into it, in order to shew the people that it is an honourable, an advantageous, and a safe peace, or that it is not such a one as the misfortunes of war had rendered necessary; and upon this last question a new one will arise, whether those misfortunes are not owing to our own misconduct? But none of these questions can be determined without having laid before us several transactions, which were previous to that called the definitive treaty of peace; and of these, the first and most necessary for us to look into, is that which was carried on at Hanau in 1743.

If it should appear, Sir, upon such an enquiry, that we obstinately continued the war without any prospect of success, when we might have had better terms of peace than we at last obtained; or that the peace is neither so honourable, advantageous, or safe, as we might have obtained, notwithstanding our misfortunes in the war; or that those misfortunes were chiefly owing to our own misconduct; I say, if any one of these should appear upon an enquiry, I am sure, those who were the cause of it, ought never again to be trusted with the management of our public affairs; but if every one of the three should appear to be the case, I do not know what may, but I know what ought to be, the consequence of such an enquiry; and if common report is to be believed, it will appear, that every one of these is the case; which report is, in my opinion, very far from being destitute of any foundation, and, consequently, must be allowed to be a sufficient reason for a parliamentary enquiry.

As this is my opinion, Sir, I shall beg leave to explain to you the grounds of that opinion; and, first, with regard to our having continued the war, without any prospect of success, after we might have had better terms of peace than we at last obtained, particularly at the time the negociation at Hanau was in agitation. Upon this subject, Sir, I must talk from common report only; for as we have had nothing laid before the House relating to that negociation, I can talk from nothing else; and from thence I have authority to say, that better terms of peace were then offered to us than we have now obtained, or could at that time reasonably expect to obtain from a continuance of the war. The then emperor Charles 7, was at that time drove entirely out of his dominions, without a probability of recovering them by war, and without any means of subsistence, but what proceeded from the charity of the court of France: in this melancholy situation he at first offered, and, considering how he had been treated, he had reason to offer, to desert his allies, to join the army of the empire with a body of his own troops, to renounce all preten-



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sions to the succession of the House of Austria, to deliver Philipsburgh and Fort Kehl to the troops of Swabia, to marry his daughter to the infant archduke, and join in measures for getting him elected king of the Romans; and all this upon the condition of his being restored to his dominions, and having his revenues augmented by a cession during life, or a secularization, so as to enable him to support his dignity as head of the Germanic body: Nay, he at last offered to accept of such terms as we pleased to prescribe, on the single condition of being restored to his hereditary dominions; and, as a security for his future good behaviour, he offered to leave all his fortified places in the hands of neutral troops.

These were the conditions, Sir, as I have heard, which were offered at Hanau by the then emperor; and as the French could not doubt of their being accepted, and were afraid of the consequences, they offered to desert their allies the Spaniards, and agree to a peace upon the footing of *uti possidetis*, that is to say, every one should remain in possession of what they had at the beginning of the war, except as to what the queen of Hungary had yielded by anterior treaties. If these terms had been agreed to, we cannot doubt but that the Spaniards, upon seeing themselves deserted by the French, and disappointed of their views in Italy, would have thrown themselves entirely into our arms, secured the freedom of our trade and navigation in the American seas, made ample satisfaction to our merchants for the depredations formerly committed upon them, and given us a much more beneficial Assiento Contract than that we had before. In short, it would have raised such an animosity between the courts of Madrid and Versailles, as must have been of great advantage to our merchants in their trade to every part of the Spanish dominions.

I therefore think it evident, Sir, that we should have accepted of the terms offered us at Hanau, unless we had almost a certainty of being able to command better by a continuance of the war. But what better could we expect? I know, we were entertained by some of the sanguine politicians of those days with the hopes of being able to get the election of the then emperor declared void, the duke of Lorrain chosen emperor, and making such conquests upon France as might be a sufficient equivalent to the House of Austria for what had been yielded to the kings of Prussia, Poland, and Sardinia; but if any man had really such hopes, I will say, that he was more fit for a place in Bedlam, than for a place in any of his majesty's councils. The Dutch had absolutely declared against assisting us in any such project: most of the princes of the empire had positively declared against it: the king of Prussia had openly and plainly told us, that if any such measures should be resolved on, he would send his contingent of 15,000 men to the assistance of the emperor, and if that should not be sufficient, he would follow them in person with 50,000 more: the Russian government was then so unsettled, that from thence we could expect no assistance; and as little could we expect any from Sweden or Denmark, who were at that very time almost upon the verge of attacking each other.

Whilst Europe was in these circumstances, could any man be so mad, Sir, as to expect, that we could accomplish any one of the three ends I have mentioned, by a continuance of the war? Could any man expect, that we would thereby obtain better terms than what were offered to us at Hanau? Yet these terms were rejected, and if I have been rightly informed, they were not at first rejected by his majesty, then abroad, but by some of his ministers here at home, and by them too in a very irregular and unwarrantable manner. What truth there is in these reports, I shall not pretend to answer: I hope they are entirely groundless: I hope it will appear, that if any terms of peace were offered at Hanau, they were such as we could not in honour agree to; and I hope it will appear, that they were rejected in the most regular and constitutional manner. If this be the case, Sir, I shall have a double satisfaction: I shall have the satisfaction of seeing some gentlemen vindicated, who at present labour under a very heavy charge; and I shall have the satisfaction of seeing the motion I am to make, unanimously agreed to.

On the other hand, Sir, if the terms of peace offered at Hanau were really better than those we have at last obtained, I shall expect to see my motion violently opposed by the friends of those who were the authors or advisers of rejecting that treaty; for by that means they have run the nation into an expence of at least 32 millions sterling, besides the loss of many thousands of brave men, whose lives have thereby been sacrificed to no purpose. I

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see some gentlemen seem surprised at the expence I have mentioned; but it is very easy to make good what I say. At Christmas, 1748, which was the Christmas after the treaty of Hanau, it appears from the state of the national debt given in to parliament, that our public debt was but 51,048,347*l.* to which I shall add the navy debt, which was then about 2,000,000*l.* in all 53,048,347*l.* Whereas at Christmas last, I believe, it will appear, when the state of the national debt is laid before us, that we are now above 76 millions sterling in debt, if we include the debt of the navy, which is now upon our table; consequently, the increase since Christmas, 1748, is 22,956,653*l.* the whole of which is an expence we have been put to by rejecting the treaty of Hanau: but this is not all; for as a million out of the sinking fund has been yearly applied to the current service, which otherwise might have been applied to the payment of our debts, and as two shillings in the pound extraordinary has been yearly raised by a land-tax, which otherwise would have remained in the pockets of our landholders; and as both these must be applied to the current service of the next year, for paying the subsidies, and making good the other charges we have been put to on account of the war, we must add two millions a year for five years, that is to say, ten millions, to the expence this nation has incurred by rejecting that treaty. Consequently, no gentleman can have any reason to be surprised at my saying. it has cost us at least 32 millions sterling.

This is a fact, Sir, which can admit of no contradiction or evasion; for figures are such plain and stubborn things, that they can neither be confounded by the art of sophistry, nor made to yield to the utmost force of eloquence; therefore, if upon examination it should appear, that the treaty of Hanau was really a good treaty for this nation, and wantonly rejected, or wickedly defeated by any of our ministers for private ends of their own, and the nation thereby involved in such a prodigious expence of blood and treasure, I believe, no faction could hope to be able to screen such ministers from the resentment of parliament: the only thing they can hope for, is to keep us in the dark, by preventing its being in our power to enter into any such examination. This they will do by opposing the motion I am to make; and if it be opposed, I shall from thence draw two conclusions, to wit, that the terms of peace offered at Hanau, were such as have been represented by common fame, and that they were either wantonly or wickedly rejected by the friends of those who oppose my motion.

Some gentlemen may perhaps ask, Sir, if the terms of peace offered at Hanau were really such as ought to have been agreed to, what end could any minister propose by getting them rejected? To this I must answer, that it is not easy to fathom the motives of ministers almost in any thing they do; but in general I shall observe, that nations have been often brought into great misfortunes, and the wisest of measures defeated, by the rivalship and envy of two contending ministers. A wise measure, or a grand design, advised or formed by one minister, has been rendered abortive or unfortunate by another, for no other reason, but because he envied his rival the glory of success, or was perhaps afraid, lest his rival might thereby acquire an influence superior to his. Suppose there were, during the whole course of the late war, some gentlemen chiefly employed in the administration, who were from the beginning against the war, and were therefore afraid of our meeting with any success, or concluding it with any glory or advantage, lest those who advised it, should thereby acquire the ear of their sovereign, and the esteem of their country. If there were then any such in our councils, and if the terms offered at Hanau were really such as have been represented, they would of course be against any such treaty's being concluded, and they would be the more anxious to have it defeated, the less prospect we had of obtaining better terms by the continuance of the war.

This, I say, Sir, would have been their conduct, if we had any such ministers in our councils at that time; and as plausible pretences are never wanting for rejecting a good treaty, as well as for concluding a bad one, we may believe, that they coloured over their opposition to that treaty with every motive but the true one. That we had any such men in our councils, I am extremely loth to believe, but as the suspicion prevails strongly without doors, I am for having the treaty laid before us; because I hope, it will appear, that the terms were such as this nation could not agree to, and this will contribute very much towards justifying the late treaty of peace, which, I am sure, nothing can justify but the necessity we were laid under

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by the misfortunes we had met with in the war; and such a continued course of misfortunes could not be owing to chance, which is generally in a course of years pretty equal: they must be owing to the superiority of our enemies, or to our own misconduct; and if to either of these, it will be at least an extenuation of the fault of those of his majesty's councils, that they could neither avoid the war, render it more equal, or put an end to it sooner, upon so good terms as those they at last obtained; but as this is a subject which cannot properly be spoke to, until we have all the necessary lights before us, I shall conclude with moving, "That an Address be presented to his majesty, That he would be graciously pleased to give directions for laying before the House, Copies of all Proposals of Peace or Accommodation, made or communicated on the part of the late emperor Charles 7, to his majesty; and a Copy of the Treaty agreed upon at Hanau in July 1743; together with Copies of all the Letters and Papers relating thereto, that were sent to the lords justices, or his majesty's ministers in Great Britain; and of all Letters and Papers that were sent to his majesty, or his ministers, by the orders of the lords justices, or by his majesty's ministers in Great Britain, in Answer to the Communication of the said Treaty, Letters, and Papers."

Mr. *Pelham:*

Sir; I shall so far agree with the noble lord who spoke last, that common fame may be a good foundation for a parliamentary enquiry; but that it always ought to be esteemed such, is what I cannot agree to. A parliamentary enquiry, Sir, must always be attended with many and great inconveniences. In the first place, it must always raise a ferment in the nation; and when it relates to foreign affairs, it generally disobliges some of our allies, or disturbs some of the negotiations that may then be on foot for the benefit of our trade, or for preserving the tranquillity of Europe. In the next place, it possesses the thoughts of our ministers so much, as every enquiry must relate to some part of their conduct, that they have no time to mind any thing else; so that all our foreign affairs, and all projects for domestic utility, must be at a stand during the course of that enquiry. And in the third place, it takes up a great deal of the time of this House, which never ought to be employed but in matters of the utmost importance to the nation, or to some particular persons, who can have relief no way but by act of parliament.

For this reason, Sir, common fame ought not to be made the foundation of a parliamentary enquiry, unless it be grounded upon some proofs, or at least upon very strong presumptions, that something very weak or very wicked has been transacted; and that by such an enquiry the nation may meet with a proper redress, without being thereby exposed to a greater evil. If otherwise, Sir; if we were to enquire into every public transaction, of which a bad report might be artfully raised, we should every session have such a multitude of enquiries, that we could never do any other business; for it would always be in the power of the disaffected or disappointed to invent facts, and by asserting those facts openly and boldly, they might raise a general bad report against every measure an administration could engage in. This is an engine which has been often played against ministers in all ages, and in all countries; and in this age and country it may now be played with greater safety than ever it was in any other; for by our old laws, even in this country, it was most severely punished; by a law of the great and wise king Alfred, the author and spreader of false rumours among the people, was to have his tongue cut out, if he could not redeem it by paying the value then put by the law upon his head: by a law of Edward 1, called Westminster the First, the spreaders of false reports, whereby discord might arise between the king and his people, or the great men of the realm, were to be imprisoned till they produced their author; consequently, if they could produce no author, they were to be held as the inventors, and to be punished according to common law, by fine and imprisonment: and this very law was revived and re-enacted in the reign of Edward 3.

Thus, Sir, we see, that even in this country we had very severe laws made against this crime, and that by some of the best and wisest of our kings; and in Scotland, before the Union, this very crime was a species of high treason, which they called leising-making, and upon which, though by a most extraordinary stretch, the representative of one of the greatest families in that kingdom, was tried and attainted of high treason, some time before the Revolution, as is well known by several gentlemen that hear me. But why should I say, we had very severe laws against this crime? We

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have them still; for they stand as yet unrepealed, though by the lenity of this government, none of them have of late years been carried into execution. If they were, I believe, few of our pamphleteers, journalists, or coffee-house politicians, could long escape punishment; and if this were the case, some gentlemen of this House would not have so often an occasion to talk of common fame or general reports, which are often artfully raised, and industriously spread, on purpose to give a handle for disturbing the government, and distressing the administration, by setting on foot a parliamentary enquiry.

As to the last treaty of peace, Sir, I cannot comprehend what gentlemen mean by, or what reason they can assign for, enquiring into it. I am sure, they cannot furnish us with the least proof, or so much as a presumption, that there was any thing weak or wicked either in the negociation or conclusion of that Treaty; and as to common fame, it generally comes very different to the ears of one man from what it does to the ears of another, according to the company he keeps, and the character of the people he converses with. How common fame has represented that Treaty to the noble lord who made you this motion, I cannot answer; but I never heard any one talk of it, who did not seem surprised, how it was possible to prevail with our enemies, in the midst of their triumphant career, to stop and agree to such reasonable terms; and if we will but recollect the dismal forebodings of those very gentlemen who now seem so much displeased with that Treaty, we can have no reason to blame the conduct of those who conducted the negociation. I remember perfectly well, that during the course of the war, as often as any negociation for a peace began to be talked of, some gentlemen were always ready to cry out, 'Ay, ay, a peace we may have, but by that peace the French will be left in possession of a great part of the Austrian Netherlands, and the greatest part, if not the whole, of the Austrian dominions in Italy will be delivered up to the Spaniards.' Thank God! those gentlemen have been disappointed, and I am apt to believe, their present chagrin arises chiefly from their being stript by the event of all future pretensions to any share of a prophetic spirit.

I can, therefore, see no reason we have, Sir, for setting on foot an enquiry into the treaty of peace lately concluded, but I can plainly see many reasons against it, for in such a complicated transaction, and a transaction in which so many of the powers of Europe were concerned, many conferences must have been held, and many informations and instructions given, which it would be extremely imprudent, and often dishonourable, to make public. If this House should once begin to enquire into our foreign treaties and negociations, I am persuaded, the consequence would be such, that no foreign prince or minister would ever have any thing to do with us, or enter into a negociation with any of our ministers; and as little could we expect intelligence from any subject of a foreign state. We should therefore be extremely shy of ever entering upon such an enquiry, and should never think of it, except when the greatest national good may be expected from the result, which cannot be shewn to be the case with respect to any enquiry we can make into the late treaty of peace; but on the contrary, it would produce a very bad effect, because it would diminish the weight and influence of our ministers with respect to those articles that still remain to be settled, especially those with France and Spain, relating to our commerce and plantations.

If then, Sir, it would be imprudent in us to enter into any enquiry with respect to the treaty of peace lately concluded, it would be more imprudent and more useless to enquire into the proposed treaty at Hanau in 1743, or any other negociation during the course of the war. As to the treaty of Hanau, I have not, for my own part, any concern with it, because I was not then of his majesty's cabinet council, and consequently I cannot say, whether the terms then offered were such as the noble lord has been pleased to represent. I have always heard, that the terms offered at Hanau appeared to be such as plainly shewed, that the then emperor Charles 7, only wanted to be restored to his dominions, and to have a little breathing time to establish his influence in the empire; and that for this purpose we should furnish him with a larger subsidy than we could well spare in time of peace, and much larger than we could possibly spare during the course of a war with France and Spain. If the terms offered appeared in this light, I must still say, our ministers did well to reject them; for if that emperor had been allowed to resettle the affairs of his hereditary countries, and establish his influence in the empire, we may easily judge what

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use he would have made of both. We might have gone on with the war against France and Spain: we might perhaps have met with some success, and made some conquests; but in two or three years we should have had the emperor, with the whole Germanic body at his back, except the Houses of Brunswick and Austria, declare openly against us, unless we agreed to such terms of peace as he might be pleased to prescribe. It would then have been said, and with justice said, that we had given a breathing time to an enemy whom we might have crushed, and that we had been paying a subsidy to the emperor, for enabling him to project and accomplish the ruin of us and our allies.

But supposing it true, Sir, that the French likewise at that time offered to desert their allies, the Spaniards, though I never before heard any such thing asserted; and supposing that the Spaniards had thereupon agreed to such terms of peace as we might think reasonable, can we suppose, that such a peace would have been lasting? Whilst the king of Spain has such a near view to the crown of France, we cannot imagine, that ever those two courts will long continue disunited: a little breach or misunderstanding may happen, but it will always soon be made up; and the only fence we have against such a formidable union, is to preserve the sincere friendship of the emperor and empire. Could we expect any such thing from an emperor chosen by French influence? Could we expect any sincere coalition between the Houses of Bavaria and Austria, whilst the former has such unbounded pretensions upon the latter? A peace upon such terms, therefore, would have been soon found to be a most treacherous one; for as soon as the emperor had established himself on the imperial throne, and obtained a majority in the diet, by means of the French influence as well as his own; and as soon as the French and Spaniards had increased their navy so as to be a match for us at sea, which they might have done in a few years, after being thus set free from all danger of any attack on the side of Germany or Italy: I say, as soon as this had been done, the war would have been renewed against this nation; and we must have stood alone against the united power of France, Spain, and Germany; for no one power in Europe would have dared to assist us; in which case it is easy to see, that the event must have been fatal to us.

I must for this reason be of opinion, Sir, that the very being of this nation depended upon our preventing the late emperor's being ever firmly seated in the imperial throne; and if upon this principle the treaty of Hanau was rejected, I must approve of the conduct of those by whose advice it was rejected. But suppose other gentlemen should be of a different opinion: suppose the majority of this House should be of a different opinion; would you punish a man for being of a different opinion in a case which, you yourself must acknowledge, admits of great dispute? Or, was difference of opinion in such a case ever allowed to be a good foundation for a parliamentary enquiry?

Nothing, Sir, but extreme weakness, or some very flagrant piece of wickedness, can be a foundation for a parliamentary enquiry into any affair, which cannot be remedied by being enquired into. I believe, no one will say, that by an enquiry we can remedy any of the misfortunes or inconveniences, that were occasioned by the treaty of Hanau's being rejected; and, I think, I have shewn, that a man might have advised the rejecting of that treaty, without being guilty of extreme weakness. The wickedness of the advice is therefore the only ground those gentlemen have to stand on, who propose an enquiry; and this the noble lord seemed to be sensible of, when he insinuated, that the rejecting of that treaty proceeded from the rivalship and envy of one minister against another; but this insinuation is, in the first place, very uncharitable, and in the next, I must think it highly disrespectful to his majesty's judgment and penetration. If any man, who has the honour to sit in his majesty's councils, should act upon such a principle, his majesty would soon discover it, and would dismiss such a one with indignation from his presence as well as his councils; and as his majesty has shewn no such resentment against any man that was then in his councils, we must suppose him to be of opinion, that the advice did not proceed from any private or bad motive, but from a conviction in those who gave it, that it was inconsistent with the honour or interest of this nation to agree to that treaty.

To conclude, Sir, I am of opinion, for the reasons I have given, that enquiring into the negociation at Hanau, or having the papers relating thereto laid before us, we can remedy none of the misfortunes or inconveniencies that arise, if any did arise,

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from the rejecting that treaty: we can punish no man for giving the advice, even supposing it to have been a bad one: we can attain to no national advantage, but may be the cause of great national mischief; and therefore I must be against the motion.

The Earl of *Egmont*:

Sir; the hon. gentleman who spoke last was pleased to tell us, that common fame might be a good foundation for a parliamentary enquiry, but common fame was not a good foundation for such an enquiry, unless grounded upon proofs or strong presumptions. He might as well have said in few words, common fame may be, but common fame never is, a good foundation for an enquiry; for if there be proofs or strong presumptions of an egregious misconduct or high misdemeanour, they are of themselves a sufficient foundation for a parliamentary enquiry, though no account of that misconduct or misdemeanor had ever reached the ears of that many-eared lady, Fame: nay, if I had proofs of any egregious misconduct or high misdemeanour in any minister, or under-minister, I should either not mention my proofs, or I should begin with a motion very different from that for an enquiry: I should begin with moving, to have the doors shut, and then stand up in my place, and after producing my proofs, I should impeach such a one of high crimes and misdemeanors; for in one who is employed and entrusted by the public, misconduct alone, without any wicked intention, I shall always consider as a high misdemeanour; because, as the civilians say, 'Affectare nemo debet id, in quo vel intelligit vel intelligere debet, imperitiam suam aut infirmitatem alteri periculosam futuram.' For the same reason, when the nation suffers by the incapacity, and much more by the neglect of those who take upon themselves any public employment, they ought to be punished severely, either by a parliamentary enquiry or impeachment.

When we have proofs, Sir, or even very strong presumptions, an immediate impeachment is the course we should take, especially if the crime be atrocious; and when there is only a general suspicion, or what is called common fame, of some misconduct or misdemeanor, an enquiry is the only course we can take, and it is the course we ought to take, that from thence we may extract proofs for an impeachment if the persons accused by common fame be guilty, or for vindicating their characters, if they be innocent. Upon this is founded, Sir, that parliamentary maxim that common fame is a sufficient foundation for a parliamentary enquiry; because, when men in high stations are accused by common fame, it is our duty to punish them if guilty, it is our duty to clear them of all suspicion if they be innocent; and for this reason, when any great minister is accused by common fame, and industriously avoids, or endeavours to defeat a parliamentary enquiry, it will always give me a strong suspicion of his guilt; for no man that is innocent will chuse to remain long under the weight of a popular accusation.

As to the inconvenience, Sir, which the hon. gentleman suggested, would arise from admitting the maxim, that common fame, without any proofs or presumptions, was a good foundation for a parliamentary enquiry, there is not the least reason for being afraid of any such inconvenience; for from all history we may learn, that ministers have very seldom been accused by common fame without being guilty: and as every enquiry, which is designed to be strict and impartial, is carried on by a select and secret committee, it could never interrupt or impede the common business of parliament, were we to have such a one every session.

The hon. gentleman, upon this subject, Sir, was pleased to run out against the spreaders of false reports among the people, and to give us an account of the severe laws we have against such criminals, which laws, he says, are not now, because of the lenity of our government, carried into execution. It is true, Sir, we have not of late years had any prosecutions founded upon those laws, because we have found out a more easy way for punishing offenders, or supposed offenders, of this kind, by lodging an information against them as guilty of publishing a false, scandalous, and seditious libel; but if I remember right, we have lately had prosecutions for publishing false news, and one conviction and severe punishment, though the news pretended to be false, was afterwards found to be true; and I must observe, that in this respect our body of laws seems to be deficient: we have severe laws against spreading such false reports as may injure our ministers, but we have no laws against our ministers spreading such false reports as may injure the people

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by leading them into the approbation of ministerial schemes, which are afterwards found to be of the most pernicious consequence to the nation. If we had, about 24 years ago, had such a law, I believe, some of our ministerial tools would have been in great danger of meeting with such a punishment as they deserved, when the people, or at least their representatives, were induced to approve of a most pernicious treaty, by reports, which soon appeared to be without the least foundation.

I shall grant, Sir, that false reports may be artfully invented, and industriously spread by those who are disaffected to a government, or discontented with an administration; and when the government is really bad, or the administration wicked, it is right to do so: I believe, the late happy Revolution was accelerated, if not in a great measure occasioned, by such practices. But an established government, or settled administration, have always, in this respect, a great advantage of their opponents; because they may have many more and sharper tools to work with, and their tools may speak more boldly, and assert more impudently in all public places, than those of the opposing party dare venture upon. Besides, ministers have it always in their power to detect the falshood of any report raised against them, especially if a parliament be then sitting; but many reports may be raised and propagated in their favour, the falsity of which can no way be detected by their enemies.

We may therefore most reasonably conclude, that when a minister, or ministerial measure, is condemned by common fame, and has lain for some time under that condemnation, there must be some ground for the sentence; and as to what common fame says of our late definitive Treaty of Peace, I never heard any one man say, that it was either honourable or advantageous for us, or any one of our allies: I have, indeed, heard gentlemen say, that it was better than they at any time expected, from 1743, until the last year of the war, because our wild conduct of the war by land, and our inactivity by sea, gave them reason to be afraid of the worst that could happen from an ill-conducted war; but as we had in the last year of the war begun to alter our conduct, and had met with success at sea, they then thought they had reason to expect much better terms of peace than those agreed to at Aix-la-Chapelle; because, if we had but stood upon the defensive for a year or two at land, which we might have done without any great danger to any of our allies, we should in that time, by a proper exertion of our strength at sea, have entirely ruined the French commerce, stript them of all their plantations, and exposed France itself to a most dreadful famine.

This, Sir, is the way of reasoning among all the men of sense I have lately conversed with, and if this be a just way of reasoning, not only the conduct of those who directed the operations of war, but the conduct of those who directed the negociations of peace, ought to be condemned by parliament; the happy consequence of which would be, that the nation would thereby get rid of a set of ministers, who neither understand how to carry on a war, nor how to conduct a negociation for peace. But as a House of Parliament, we can give no opinion either of the conduct of the war, or of the Treaty of Peace, without a proper enquiry; and that enquiry we cannot enter into, without first having laid before us all the lights necessary for enabling us to form a right judgment.

The objections made by the hon. gentleman against our entering into such an enquiry are so stale, and have been so often refuted, that they are scarce worthy of any notice. As such an enquiry is always carried on by a secret committee, and as that committee never report, or lay before the House, any papers or facts but such as may be made public, without any prejudice to the honour of the crown, or the interest of the nation, we cannot from thence apprehend the discovery of any secrets which ought never to have been divulged. And as to our ministers, if they are such wise and upright ministers as can justify every part of their conduct, an enquiry cannot give them much trouble; whereas, if they are weak or wicked, the best thing we can do, is to take up their thoughts so as to prevent their acting, because their actions generally tend to the ruining or enslaving the nation.

I shall not take up your time, Sir, with entering into an examination of the terms of the late Treaty, though, I think, I could demonstrate, that even from the then circumstances of affairs, we might have obtained, and ought to have insisted on better terms, especially with regard to our disputes with Spain, which seem to have been forgot, on purpose to shew the people, that they must expect no redress by



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entering into a war against the good liking of some gentlemen amongst us. But this I shall reserve till the Treaty itself is brought properly before us, which I hope it will be, after we have had all the necessary papers laid upon the table, and particularly the papers now moved for, relating to the treaty at Hanau in 1743. Whether the terms offered by that treaty ought to have been agreed to, is a question that cannot now be discussed; but to suppose, that the late emperor had any such secret view as the hon. gentleman has been pleased to suggest, is a supposition directly contrary to the nature of the terms he offered, to his own natural temper, which was peaceable, to the then state of his health, and to the bad treatment he had met with from the French, during the whole course of the war. From all these it appears to me above doubt, that he was sincere in his offers, and that he desired nothing but to enjoy the dignity that had been conferred on him by a great majority of the electors of the empire, and to spend the rest of his precarious life in peace and quietness. And if he was sincere, I make not the least doubt of the sincerity of the French in their desire of peace; because they had experienced the difficulty and expence of carrying on a war in Italy, whilst the king of Sardinia was against them, and their enemies absolute masters of the Mediterranean; and they certainly knew the danger their commerce and plantations were exposed to from our superiority at sea, though it seems never to have entered the heads of our ministers till the last year of the war.

But nothing of this kind, Sir, can at present come properly before us, because we are entirely in the dark both as to the terms that were then offered, and the manner in which they were either offered or rejected; and so we must remain, till the papers now moved for be laid before us; for we can either expect nor depend upon any information we can have from either class of our ministers. I say, either class, Sir, because we have at present two sorts of ministers: I mean, first-rate and second-rate ministers. As to the latter, they have never yet got access to the cabinet, nor have they yet been admitted by the back-stairs; and I doubt if they ever will: from them therefore we can expect no information, and our first-rate ministers can give us none, because they are bound by their oath not to divulge any thing that passes in the cabinet.

Thus, then, it must appear to be quite foreign to the present question, to shew that the terms offered at Hanau were such as ought to have been accepted, or such as ought to have been rejected; because we have as yet no parliamentary knowledge of the affair; but common fame says, they were such as we ought greedily to have embraced, considering the then circumstances of Europe, the great debt this nation was before involved in, and the vast addition that must be made to that debt by a continuance of the war. Nay, we have something more, Sir, than common fame; for the late emperor, after he found that nothing he could offer would be accepted, published a manifesto in Germany, giving a full account of that whole negociation; and if the terms offered were such as were set forth in that manifesto, I will say, that those who advised their being rejected, be who they will, deserve a severer punishment than I chuse to mention.

As this part of the emperor's manifesto was never contradicted by us or our allies, it furnishes us with a presumption of the strongest nature, that the terms were such as there represented, and consequently an enquiry into that transaction must be allowed to stand upon such a foundation as the hon. gentleman himself has declared to be sufficient. But, says the hon. gentleman, the question, whether those terms ought to have been accepted or rejected, was a question of a very disputable nature, and we cannot pretend to censure or punish any man for his opinion upon such a question. This, Sir, is begging the question; for until the treaty and papers relating to it be before us, we cannot determine, whether it was a doubtful question or no; and if this motion be rejected, it will with me be a proof, that those who oppose the motion are conscious, that they cannot support their opinion, if the treaty should be laid before us, and the terms of it fairly canvassed: they are afraid of its being then made appear, that the rejecting of that treaty proceeded from the most egregious weakness, or the most perfidious wickedness; and if this motion should be complied with, and some others which it will hereafter be proper to make, I believe, I shall be able to make it appear, that the last of these two was the real motive: that is to say, I believe, I shall be able to make it appear as plainly as it is possible to make the secret thoughts of a man's heart appear to the world.



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To say, Sir, that this is shewing a disrespect to his majesty's judgment and penetration, is an argument that might be made use of in an absolute monarchy, but in a limited monarchy, such as ours, it is an argument of no manner of weight; because in this country the king has it not always in his power either to chuse or dismiss his servants. King William often retained in his service, and even in his councils, men who, he knew, were plotting against him; but as he had no legal proofs of their treachery, he thought it not prudent to disoblige them, and therefore he concealed even from them what he knew of them. I am persuaded, neither the behaviour of some gentlemen during the late war, nor the motives of that behaviour, have escaped his majesty's judgment and penetration; but as yet he may not think it proper to manifest his resentment by dismissing them his service, because he cannot prove what he certainly knows to be true. A strict parliamentary enquiry might furnish him with those proofs; therefore, by such an enquiry we may do a signal service to our sovereign as well as our country; for which reason, I shall be upon the affirmative side of every question that tends to an enquiry into the conduct of the late war, or the negociations for concluding the late peace.

Mr. *Horatio Walpole*, sen.

Sir; as all the parliamentary enquiries into the conduct of ministers, which I ever heard or read of, have either produced no effect or a very bad one, I have been, and I believe, I shall always be against our giving ourselves any such trouble; and I am sure, I shall never be for our enquiring into the conduct of any public transaction, which is applauded even by the voice of common fame; a voice which never was favourable to ministers, till after they were in their graves, and then, indeed, they may meet with that justice, which they never could expect while they were alive. I know, Sir, it has been often urged in this House, that common fame is a foundation sufficient for an enquiry: but this is a doctrine which I never could subscribe to, because, if it were allowed in its full extent, we could never be a session without an enquiry; for I never heard of a minister who was not, every year of his administration, accused by common fame of having done something amiss. I must, therefore, be of opinion, that a parliamentary enquiry ought to have something more solid than common fame to rest on. But whether this be a right opinion, or no, is a question that can have nothing to do in the present debate; for the late treaty of peace is not so much as accused by common fame. By every one, who considers the circumstances to which both we and our allies were reduced, it is allowed to be a better treaty than could be expected; and as the decree of a judge is generally supposed to be just, when neither of the contending parties is pleased with it, so the late treaty has this in its favour, that it is more exclaimed against in France than it is in England.

An enquiry into the conduct of our ministers, with regard to the late treaty of peace, cannot, therefore, Sir, be said to have even common fame for a foundation; and if we have no foundation for enquiring into that treaty, we can have no foundation for enquiring into any transaction previous to it; for surely we ought not to inflame the nation, and expose our own characters and the dignity of this assembly, by setting on foot an enquiry into an affair which is not condemned by common fame, unless we had proofs of some wicked design or egregious misconduct. I say, Sir, expose our own characters and the dignity of this assembly, because, when a parliamentary enquiry is set on foot, the people always conclude, that something wicked or very weak has been done, and they justly expect to see the authors punished, or at least removed from our national councils; if they are disappointed in this expectation, they always suppose, that many of us have been bribed to screen the guilty, and conceive a very unfavourable opinion of this august assembly. This is a most dangerous consequence, and might prove fatal to the constitution of our government; and yet, this must always be the consequence of our enquiring into any transaction, which can neither be accused of weakness or wickedness; for unless something of this kind does appear, no parliamentary punishment can ensue.

But supposing, Sir, that there has been some little neglect or imprudence in the management of any public affair, and that the managers not only deserve, but would probably, upon an enquiry, meet with a parliamentary punishment or censure; yet the dangers to which the nation is exposed by every such enquiry, do a great deal more than over-balance the advantages

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that can be expected from it. The noble lord was pleased to say, that as such an enquiry is always carried on by a secret committee, there could be no danger of any secrets being thereby discovered, that might any way prejudice the honour of the crown, or the interest of the nation; but in this, I must differ from his lordship; for I shall always look upon it as a certain maxim, that the more persons a secret is committed to, the greater is the danger of its being discovered. Besides, our privy counsellors are always sworn to secrecy, which will always be a bar to their discovering any of the secrets of government, as the noble lord himself was pleased to observe; for, surely, no man will wantonly tell a secret, when he knows, that the person he tells it to, must look upon him as a perjured knave: but I never heard that the members, even of our secret committees, take any oath of secrecy; therefore, we have reason to be afraid of their discovering secrets out of mere wantonness, especially, when we consider how fond men are to shew, that they know more than the rest of mankind.

The noble lord was pleased to advance another doctrine, Sir, in which I cannot agree with him: he was pleased to say, that a wise and upright minister can be put to no great trouble by an enquiry into his conduct; but I must beg his lordship's pardon. If an innocent man were to be tried for murder, can any one think, that it would give him no concern, or that the preparing for, and making his defence, would take up no part of his time? The most prudent and most innocent man may be brought to suffer by false witnesses, or by misapprehending the evidence, either for or against him; therefore, he must give close attention during the whole time of the trial, to prevent or expose falshood, and to have the evidence on both sides clearly and rightly understood. This is the very case of a minister, whose conduct is enquired into by parliament: his character, perhaps his life, is at stake; and, therefore, during the whole course of the enquiry, let it be of never so long continuance, he must give the closest attention to its proceedings: he must take care to prevent or expose any false witnesses against him; he must take care to have proper witnesses, and proper vouchers for his defence; and he must take care to have the whole evidence, on both sides, distinctly and rightly understood. Can a minister, in such circumstances, have time to mind the public business of the nation? Ought we to bring any one of our sovereign's ministers into such circumstance, without any previous proofs or strong presumptions of his being guilty? Even then we ought not, unless some very great national advantage may be expected from the result of the enquiry.

These, Sir, are inconveniencies and dangers which should make us, at all times, extremely cautious of entering upon any enquiry into the conduct of our ministers; but the greatest and most dangerous inconvenience I have not yet mentioned; that is, the discredit it brings upon our administration at all foreign courts. It is like a gentleman's having a suit brought against him for his whole estate: let the suit be never so groundless, no man will give him credit till it be determined; and in the mean time he may lose an opportunity of making great improvements. The case may be the same with this nation. As my worthy friend upon the floor has already hinted, we have still several articles to settle both with France and Spain, relating to our commerce and plantations. Could our ministers expect any success in the negociations for this purpose, should they be brought under, what I may call a parliamentary prosecution? And as both France and Spain feel as yet the smart of the wounds they received from our navy, if those points are not settled whilst that smart remains, we may afterwards find it very difficult, if not impossible, ever to procure any settlement, without a new war. Both these kingdoms have reason to dread the power of this nation, whilst we are cordially united amongst ourselves: France owes its being to our divisions under Henry 6, and its present grandeur to our divisions under Charles 1; and Spain owes its present low condition to our cordial union under queen Elizabeth and queen Anne. As parliamentary enquiries have always fomented divisions in this country, if any such thing should be now set on foot, they will expect the same consequence, and will haughtily reject the most reasonable proposals our ministers can make.

The present is, therefore, Sir, the most improper time we can chuse for enquiring into any late transaction, were there really a good ground for such an enquiry; but when there is not the least ground; when our ministers are not so much as accused by common fame of having pursued any wicked or weak measures: when they

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have brought our enemies to yield up by a peace all the conquests they had made during the course of a successful war, an enquiry would not only be groundless, but madness; for as to the insinuations thrown out, as if our success in the war had been defeated by the rivalship of two contending ministers, or as if any thing had been neglected in the Treaty of Peace, on purpose to shew the people of this nation, that they must not expect any redress by entering into a war against the good liking of some gentlemen; they do not require any answer, because I know of no rivalship that has lately been between ministers, nor do I know of any gentlemen that were ever against entering into the war; and after we had entered into the war, it is evident from facts, and confirmed by the large debt we have contracted, that we did all we could to obtain success. It is manifest that we did not spare our money, and our enemies themselves confess, that our troops did not spare their blood. If our allies did not likewise exert their utmost strength, or if their troops did not at all times appear so forward to spill their blood in their country's cause, are our ministers to blame? Or, can this be a reason for our enquiring into the conduct of our ministers?

But it seems to be some people's way of thinking, Sir, that every misfortune ought to be charged to the account of our ministers: though in this country, ministers have less power than in any other, yet we seem to think, they have more power than was ever granted by God Almighty to any human creature. If an expedition be disappointed by contrary winds or tempests, our ministers are charged with the disappointment, as if they had command of wind and weather. If an enterprize fails by the neglect or incapacity of the officers employed, our complaints presently run high against our ministers, though every one knows, that by the nature of our constitution, our ministers are often obliged to employ officers, on whose care or capacity they have little dependence. In short, some people amongst us seem to treat our ministers as the Turkish janizaries do their commanders. If they have good success, their commander is a wise and great general, let his success be never so accidental, his blunders never so conspicuous: whereas, if they meet with bad success, the whole blame is laid upon the commander, though often owing to their own cowardice or sedition. But in one respect there is a wide difference; for in this way of judging, the Turkish janizaries are constant and uniform; whereas, in this country, let a man who but yesterday loaded the ministers with every misfortune, and imputed every success to mere chance; I say, let such a man have to-day a place in the administration, and he becomes the very reverse of a Turkish janizary: every success is then owing to the wisdom of the minister, and every misfortune he ascribes to some fatal accident beyond the reach of human foresight.

This, Sir, is an observation I have long since made; it has been confirmed by many experiments; and if a new experiment were now to be made, I believe, I should see the truth of it established. But thank God! his majesty has a much juster way of judging: he does not judge of a minister from the event, but from the whole tenor of his conduct; and whatever the necessity of the times might oblige king William to do, as his present majesty neither is, nor ever was, under any such necessity, we must suppose that his majesty would not only have discovered, but disgraced any minister that had sacrificed his glory, or the good of his subjects, to any private passion or resentment; which with me, is of itself alone a sufficient argument for concluding, that nothing weak or wicked has been transacted either in the prosecution of the war, or the negociations for a peace, and, therefore, I am against our agreeing to this motion.

Lord *Strange*:

Sir; the hon. gentleman who spoke last, set out with an opinion, and concluded with an observation, for both which I am sorry to say, he has from experience by a great deal too much reason. His opinion was, that parliamentary enquiries into the conduct of ministers have either produced no effect, or a very bad one: I shall admit, that they have sometimes, though seldom, produced a bad effect; and I shall also admit, that they have but rarely produced all the effect they ought to have done: but he must remember a very late enquiry that produced some effect, though far from all the effect which the people had reason to expect from it; and if he thinks that the effect it produced was a bad one, I believe, he will find very few unbiassed men in the kingdom to join with him in opinion. Nevertheless, I shall readily excuse him having such an

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opinion of it, upon many accounts, and chiefly, because we are apt to have a very bad opinion of any effect by which we have been once heartily frightened. But will he say, that the enquiry into the conduct of the South-Sea Scheme in 1720,* the enquiry into the conduct of the earl of Macclesfield, and many others I could mention, produced no effect, or a very bad one? We are not therefore to condemn parliamentary enquiries by the lump, because such an enquiry has, perhaps, once in a century produced a bad effect.

I shall grant, Sir, that ministers and their favourites have generally a strong reason for exploding as much as they can all parliamentary enquiries; and as the hon. gentleman has been a minister, or the favourite of a minister, I believe almost ever since he began to form any opinion about parliamentary affairs, I do not in the least question his having been always against our giving ourselves any such trouble; but as I never was a minister nor the favourite of a minister, I have formed a very different opinion of such enquiries, being fully convinced, that they will much oftner produce a good than a bad effect, unless our minister should find means to have always a staunch majority in both Houses of Parliament, and then, indeed, it is easy to foresee, that such enquiries would be made the scourge of every great and honest man in the kingdom: every man's life, liberty, and estate, would depend upon the good will of the minister for the time being; for the boasted boon we got by the Act of Settlement, as to fixing our judges in their seats, 'Quamdiu se bene gesserint,' would be of no effect, because, if any one of them dared disobey the directions of the minister, he would be addressed out of his place by parliament; but this fatal consequence will, I hope, be some time or other prevented by a strict and free parliamentary enquiry into the powers our ministers are now possessed of; for the result of such an enquiry would, I am confident, produce a law for annihilating or restraining most of those powers; and the observation with which the hon. gentleman concluded, must convince every man who has a regard for our constitution, that such an enquiry and such a law are now become absolutely necessary.

The truth of his observation I shall not controvert: I do believe, he has too often found it confirmed by experience; but, I hope, he has likewise met with many exceptions, and, I think, that for the sake of some of his friends, he might have spared making any such observation; for, however it may affect them, it can as yet affect none of those who patronise the motion now before us. I was therefore surprised, Sir, to hear such an observation made by that hon. gentleman; but I was more surprised to hear him affirm, that his present majesty was never brought under a necessity to employ those whom he knew to be plotting against him. Sir, the parliament has sometimes tore a wicked minister from the bosom of their sovereign: this is constitutional, this is legal: but even the parliament never presumed to tell their sovereign, You shall employ this man, or this set of men. Shall a number of private men conspire to do what the parliament only can do, and even what the parliament never presumed to do? I know, that such a conspiracy is not declared treason by statute; but I will say, that it is as much a plot against the king's sovereignty, as a conspiracy in favour of the Pretender would be a plot against his crown; and in common sense, though not by statute, it is equally criminal. By our present constitution, I know, that any subject may refuse serving the crown, or resign his employment when he pleases; but, for a number of subjects to enter into a conspiracy to resign all at once, and at a most critical conjuncture, unless their sovereign will dismiss such a minister, or employ such a one, is, in my opinion, the next degree to treason. Whether any such thing has been done of late years, I leave to be considered by those that hear me; but if it has, I am sure, it cannot be said, that king William, or any sovereign of these kingdoms, was ever, in a time of peace, treated so by a conspiracy among a few of his subjects.

But now, Sir, to come to the subject properly under consideration, I shall join with the hon. gentleman in opinion, that the late Treaty of Peace was even better than could be expected, considering the circumstances that both we and our allies were reduced to; for we must not compare this last Treaty with the treaty of Utrecht, because our circumstances were widely different. Our public credit was really become precarious, and our allies, the Dutch, were in a most dangerous situation; so dangerous, that I am persuaded, if we had rejected the terms then

* See Vol. 7, p. 694.

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offered by France, the Dutch would have taken care of their own safety, by concluding a treaty of neutrality at least, if not by joining against us. If either of these had been the consequence, gentlemen are much mistaken who suppose, that the French would have withdrawn their armies from Flanders, and resolved to carry on the war only in Italy. No, Sir, they would have marched the great army they then had in Flanders directly to Hanover, and the princes of the empire would have been so far from resenting it, that some of them, and, perhaps, the Swedes too, would have joined in the expedition. I know, that by the Act of Settlement it is provided, that this nation shall not engage in any war for the sake of Hanover; but if that electorate comes to be attacked upon our account, we are certainly bound, both in honour and justice, to defend it to the utmost of our power: this we must have done; this we were bound to do, by all the ties by which one nation can be bound to defend another; but could we have done this effectually, after the Dutch had withdrawn themselves from the alliance? Russia, perhaps, as well as the House of Austria, might have joined us with their whole force, but the chief expence of the war must have lain upon us; and considering the precarious state of our public credit, we could not propose to have supported this expence, no, not for one campaign.

From hence I must conclude, Sir, that our agreeing to the preliminaries at Aix-la-Chapelle was an act of force, not of choice, and that this force was put upon us by the Dutch declaring plainly, that if we would not accept of the terms then offered, they would provide for their own safety, by agreeing to a neutrality, withdrawing their troops from our army, and obliging our army to evacuate their territories. But, Sir, supposing this last Treaty of Peace was a force put upon our ministers, in the manner I have mentioned, and supposing it to be the general opinion, that the terms are better than in our circumstances could be expected, is that a reason for our not enquiring into it? Will any one say, that, abstractedly speaking, it is a good Treaty? Sir, I will say, that it is the most dishonourable, the most disadvantageous Treaty England has made since the reign of Henry 6. Nay, I will not even except the treaties made during a late administration; and as I have mentioned the unfortunate reign of Henry 6, I must observe, that France neither owes its being to our divisions in that reign, nor its grandeur to our divisions in the reign of Charles 1, but to the weakness of our administration in those two reigns; to which I may add, that France owes its recovery from the low state to which it was reduced in the reign of queen Anne, entirely to the weakness of our administration since that time; and if we do enquire into the last Treaty of Peace, and the conduct of the war previous to it, I am afraid it will appear, that the fatal necessity we were reduced to, of agreeing to such a dishonourable and disadvantageous Treaty, was owing to the weakness, if not the wickedness, of some now in our administration.

If this be the case, Sir, if there be but a suspicion that this is the case, is it not a good foundation for a parliamentary enquiry? The hon. gentleman who spoke last was pleased to say, that he knew of no late rivalship between ministers, nor did he know of any gentlemen that were against the war. It may be so, Sir, but it is pretty notoriously known, or at least generally suspected, that several gentlemen of high distinction were against the war with Spain, as well as against that for supporting the House of Austria. As to the last, I believe every one remembers, what a clamour was raised against our taking the Hanover troops into our pay for that purpose. I was myself one that joined in raising that clamour, and I then thought, I was right in so doing, but I am now convinced I was wrong, and I may the more freely declare it, because no one can say, that this change in my way of judging proceeds from any place in the administration.

Then, Sir, as to the contention or rivalship between two ministers, whether the hon. gentleman knows it or no, I believe it certain, that there was such a contention, and that it run so high, that his majesty was at last obliged to dismiss the minister, who had always appeared zealous for the war with Spain, as well as that for the support of the House of Austria. Whether the other minister endeavoured to render the war unsuccessful, because it had been advised by his rival, or whether our ill success was owing to weakness and bad conduct, is what we are and ought to enquire into; but I must observe, that our having been at a great expence, and run a great deal in debt, is no proof, that there was neither weakness nor design in the war's being so unsuccessful; for in the

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conduct of such a war, an infinite sum of money may be spent to very little purpose; and there are numberless ways of rendering a war designedly unsuccessful, which cannot be discovered by common observers. But this is not the case at present; for many of those ways have been discovered, and plainly pointed out, not only in conversation but in print. There are many facts pointed out, which, if true, could proceed from nothing but the greatest weakness, or from a formed design to render the war ruinous to this nation. As many of those facts are now published to the world, and many others talked of in common conversation, I shall not take up your time with repeating them; but, in my opinion, they lay us under an indispensable necessity to enquire into the late Treaty of Peace, and the conduct of the war, which made it necessary for us to accept of that Treaty.

Besides, Sir, from the very nature of the thing, an enquiry becomes necessary; for the ill success of a war must always proceed from the unsuccessful party's being overmatched, or from his bad conduct, or from accident. As to accidents, Sir, I cannot recollect so much as one cross accident we met with during the whole course of the war: on the contrary, every remarkable accident was in our favour. The death of the last emperor was very much in our favour: the death of the king of Spain was likewise an accident in our favour: our success at Dettingen, I may say, the preservation of our army there, was chiefly owing to an accidental rash step in one of the French generals; and none of the French victories were owing to accident, but to their superior conduct, or superior numbers. Then as to our being over-matched, if we were, it was a most cogent reason for our embracing the first reasonable offers of peace, and consequently militates strongly against the conduct of those who were the authors of rejecting the treaty of Hanau. If the offers then made were any way reasonable, those who advised their being rejected cannot pretend to say, that we were over-matched in the war, and, therefore, must acknowledge, that our ill success was owing to bad conduct. From whence it is, I think, evident, that if the offers of peace made at Hanau were reasonable, and if those who advised their being rejected have ever since had the management of the war, they must be one way or other to blame, consequently, their conduct ought to be enquired into. Indeed, the conduct of the whole war, from the beginning of that with Spain, ought, I think, to be enquired into: for if a war which has cost this nation above 53 millions sterling, without reaping any one advantage, and a war in the prosecution of which a course of bad conduct may so probably be supported, is not a proper subject for a parliamentary enquiry, I am sure, nothing ever can be so.

As to the objections made against our entering into such an enquiry, they will always be equally good against our entering upon an enquiry into any transaction that has a relation to foreign affairs, and this of itself is sufficient to render them of no weight; but as to that of diminishing the influence of our ministers at the courts of France and Spain, and thereby retarding or disappointing the adjusting of those articles that still remain to be settled relating to our commerce and plantations, it is so far from being an objection, that, I believe, it is rather an argument for an enquiry. Both those courts know, that our present administration is of the same complexion with a late one, which submitted to their insults for near twenty years together, and would have continued to submit, if it had not been drove into a war by the people, and by a bold enterprize of one of our sea-commanders. When those courts hear of an enquiry's being set on foot, they will of course suspect, that it may make way for a change in our administration, and that the new ministers not having been bred up at the pusillanimous school of the minister lately deceased, will insist upon higher terms than the present would readily agree to; which suspicion will make them settle every thing in dispute as soon as possible; for from the experience they have had of our naval strength I believe, they will be cautious of entering again into a war with this nation, till they think themselves an equal match for us at sea; and that, I hope, we shall take care to prevent, by increasing our naval strength in proportion as they increase theirs.

As to the objection, Sir, that an enquiry would so much employ our ministers, that they could not attend to the public affairs of the nation, it might have some weight, were we engaged in a war; but as it is now a time of profound peace, and as the enquiry could not be of any long duration, they may spare time enough to provide for their defence; and, I think, they should desire to be put upon it, if they

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be innocent; for an innocent man who has the misfortune to be accused of any heinous crime, will certainly be desirous of being put upon his trial, that he may have an opportunity to vindicate his character: even a private man is in such a case bound, in justice to his character, to desire a trial; but a minister has a farther and higher obligation, because the infamy of his character may hurt that of his sovereign, and alienate the affections of the people.

In this light, Sir, let us consider the situation of our present ministers. The complaints are loud against their conduct in the late war: they are accused not only of misconduct, but of designing to render the war unsuccessful for private ends of their own. They can vindicate themselves no way but by submitting to a strict and impartial parliamentary enquiry. This they are bound to submit to, in duty to their own character, in duty to their sovereign. If they do, they may be able to shew, that the terms of peace offered at Hanau, were such as we could not agree to: that no such terms as we could agree to were offered, till the congress at Aix-la-Chapelle, and that our misfortunes in the war proceeded all from our being over-matched and over-powered. But if they do not submit to an enquiry: if by means of their friends in this House, they defeat every motion tending that way, what can the world think? Will it not think them guilty of the very worst things that have been laid to their charge? And how this may affect their sovereign, I leave to them to judge. Therefore, Sir, in duty to his majesty, and in friendship to our present ministers, without either place or pension, I shall give my vote for this motion, and for every motion that seems to have the same tendency with this.

The House then divided, when 138 were for the Address, and 288 against it. So it was carried in the negative.

*Debate in the Commons on a Motion for Papers relating to the Treaty of Aix-la-Chapelle.**] February 7. The Earl of Egmont moved, "That an humble Address be presented to his majesty, that he would be graciously pleased to give directions for laying before the House, copies of all proposals of peace or accommodation made or communicated on the part of his majesty to the French king, or on the part of the French king to his majesty, in the year 1744, together with copies of all the letters and papers relating thereto.*" ——And he repeated the same motion for the years 1745, and 1746; after which he moved, "That an humble Address be presented to his majesty, that he would be graciously pleased to give directions for laying before the House, copies of the overtures for a general pacification mentioned by his majesty in his most gracious Speech from the throne, upon November 12, 1747, to have been then lately made to his majesty on the part of France; and though some of the terms proposed were such as could not be approved, a congress was actually agreed to be held at Aix-la-Chapelle, whither the several ministers did soon repair; and also copies of all other proposals of peace or accommodation, made or communicated on the part of the French king to his majesty, or on the part of his majesty to the French king, in 1747, together with copies of all letters and papers, so far as they relate to the said overtures and proposals, and the interest of Great-Britain, and her allies at that time." This motion was supported by

Sir *Edmund Thomas*, who said:

Sir; when a motion was made you lately, relative to some other transactions (those at Hanau) I was not so much surprised, that gentlemen in power should be unwilling to lay before you any propositions that had been made of an advantageous nature to this country, which by a comparison with the terms, on which peace has since been concluded, would convince us of their own misconduct, which, I think, is the softest expression I can bestow on it. But, Sir, it is something extremely mysterious, that they should appear equally solicitous to conceal propositions which were so extremely disadvantageous, that we were assured from the throne itself, they were inadmissible;

* From the London Magazine.

* "Notice being taken, that, from some words which had been spoken in the House by the lord Egmont and Mr. Horatio Walpole, sen., there was reason to apprehend a quarrel might ensue; Mr. Speaker, by direction of the House, required them to stand up in their places, and give the House assurance not to prosecute what had happened. Whereupon Mr. Horatio Walpole stood up in his place, and promised the House not to prosecute the matter. Then the lord Egmont stood up in his place, and made the like promise on his part." Commons' Journals.

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and, therefore, it is impossible to suggest any other motives for such a behaviour, but a consciousness, that those very inadmissible terms, or even some still worse than those, have been since admitted: for it seems, Sir, there are no terms so bad that were previously offered and rejected, with which this treaty of peace, as it now stands, will bear the test of comparison. And, upon my word, I do not conceive what terms they were that could have been more inadmissible, especially, as far as relates to Great Britain, than those of this treaty, which have fixed an indelible stamp of infamy on our national reputation, and have sacrificed the great commercial interest of this country, by the precarious footing on which it has left all your trade to Spain; and in this respect, whatever disadvantages your Spanish trade labours under, is so much given to France, which will supplant you in it. What I say, I do not intend merely in regard to the affair of searching our ships, but the leaving the treaty of 1715 unconfirmed, by which your commerce may be exposed to such high duties, as will entirely cut it up by the roots; for can we imagine France will hereafter suffer Spain to settle this point in our favour, by subsequent negociations, from which she reaps such infinite advantages, without some equivalent that may be fatal to us?

Our trade is now left on the foot of the explanatory articles of the treaty of Utrecht, which were thought so bad, that they did not dare at that time to insert them in the body of the treaty, nor were they signed by the plenipotentiaries, no traces of them were to be found in the secretaries offices; but they were clandestinely negociated by an Irish Papist, then resident in Spain, and privately foisted into the ratifications. How this matter comes to be neglected now, must create suspicions of a most alarming nature; for as we have given up every pledge in our hands, that could induce a compliance from the courts of Spain and France hereafter, this may be reserved as a plea for what dare not now be avowed, and for which necessity then will be urged as a justification. And let every gentleman, who hears me, reflect on this occasion, that our negociations with Spain are entrusted to the same person, who a few years ago concluded the so much detested and infamous Convention with that crown.

But, Sir, it becomes this House more particularly to exert their right, or rather duty of enquiry at this time, from a consideration of the very contemptuous manner in which it has been treated, in regard to the present peace, as it was not thought worthy to have even the preliminaries, when signed, communicated to it, though signed and sent over while parliament was sitting, and when a total disregard, in those preliminaries, to the united sense of parliament, most solemnly expressed by the unanimous resolution of both Houses, in relation to the pretensions of Spain to visit our ships, made such a communication more particularly decent and necessary.

As therefore, on the other hand, there is not the least ill consequence pretended from giving us a sight of the propositions now moved for; as nothing but a consciousness of guilt can induce a desire to keep them concealed; as the knowledge of them is necessary to form and determine our judgment on subsequent transactions, I am most sincerely for the motion.

Mr. *Pelham:*

Sir; as every argument made use of against the motion for the papers relating to the treaty of Hanau, militates much more strongly against the motion now made to you, and as that motion was rejected by a great majority, I cannot comprehend what could induce the noble lord to make this motion, or why any gentleman should have given himself the trouble to support it; for, I hope, no gentleman will ever think of taking up the time of this House, with making or supporting any motion, merely for the sake of shewing how dexterously he can enforce a bad argument: and yet I can suggest to myself no other motive for this motion, unless it be a worse one, namely, that of raising a popular clamour against his majesty's government, which may be the more easily done, as it is well known, and has been acknowledged, that the late treaty of peace was not such a one as we wished, but such a one as the misfortunes of the war made necessary.

Surely, Sir, gentlemen must know that the more recent any public transaction is, the more dangerous it must always be to make public the papers relating to it; and if the House rejected the late motion relating to the treaty of Hanau, because of the danger attending its being agreed to, gentlemen could not but suppose, that this motion would be rejected for the same reason, unless they imagined, that many



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gentlemen had since that time changed their sentiments; and if they had any such imagination, I believe, the issue of this debate will convince them of its having been very ill grounded.

This I have the more reason to believe, Sir, because there has not been, nor, indeed, can there be any one argument made use of in favour of this motion, that was not urged in favour of the other; and the chief objection is, as I have said, much stronger against this than it was against the other. Suppose it true, that the proffered terms of peace, which at the beginning of last session were thought inadmissible, were before the end of that session admitted: suppose that worse were admitted: might not a change of circumstances, or a change of sentiments in all our allies, have made that admission necessary? I am far from admitting the truth of any such supposition; but if it were true, it would be so far from being an argument in favour of this motion, that it would be an unanswerable one against it; because such discoveries might thereby be made, as might be of infinite prejudice to our natural allies, and of which our natural enemies might make great advantage.

The objection against the late treaty of peace relating to our trade with Spain, is another argument of the same nature: I believe, Sir, no gentleman can shew me a general treaty of peace, wherein the affairs of trade between two particular nations were settled; such matters are always adjusted afterwards by a treaty of commerce, and this was certainly the reason why the treaty of 1715 was not particularly mentioned in the late general treaty, because that treaty related merely to commerce, and was to be explained and confirmed by a future treaty of commerce, which is not yet settled; therefore, if our commerce with Spain be exposed to high duties, if our ships be exposed to searching, which I am far from admitting, it is an argument against our calling for any papers relating to our late negociations, lest they should make such discoveries as might retard, if not entirely disappoint the adjustment of those points which relate to our commerce with Spain, and the freedom of our navigation.

The hon. gentleman says, we have given up every pledge that might have induced a compliance from the courts of Spain and France, and insinuated, as if we were to make some sacrifice for gaining hereafter that compliance. Sir, we have in our hands, I hope we shall always have in our hands, an argument more prevailing than any pledge we ever had or can have: we have, Sir, an invincible navy: while we keep that, we shall never have occasion to make a sacrifice for any compliance we can reasonably demand. But even our navy, invincible as it is, we should never make use of for enforcing unjust or unreasonable demands, because it may raise against us, that by which alone our navy can be overcome, the vengeance of God Almighty: nor should we ever make use of it, till we have found all amicable methods ineffectual; and as this should always be our last resort, we should avoid every thing that may tend towards making that resort necessary, which, I think, is the direct tendency of the motion now under consideration, and indeed of every motion of the same nature; for as enquiries always produce heart-burnings and divisions in the nation, they encourage foreign courts to defer, at least, those compliances which they would otherwise have granted upon the first demand, and they defer so long, that we are at last forced to have recourse to some violence, which brings on an open rupture.

That this House has a right to enquire, Sir, and that it may sometimes be our duty to enquire, I believe, no man will deny; but surely it will be granted, that it is our duty not to exert this right when it can be of no benefit, and may be the cause of great prejudice to the nation, which I think is plainly the case of the enquiry now proposed; for none of the gentlemen that have spoke in favour of this motion, have so much as attempted to point out any one national benefit that can possibly result from the enquiry they propose. The hon. gentleman has, indeed, given us a new argument for an enquiry, and such an argument as never, I believe, was made use of in this House before. He seems to think, that we ought to enquire out of revenge, because of the contemptuous manner in which we have been treated. By whom, for God's sake, Sir, have we been treated in a contemptuous manner? Surely the hon. gentleman will not say, by his majesty; and yet he must allow, that no minister either could, or durst communicate the preliminaries to us without his majesty's order. But he may perhaps say, that the ministers ought to have advised his majesty to communicate the preliminaries to parliament, before he ratified

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them; and that their not doing so, was treating this House in a contemptuous manner. This, Sir, may be an argument for an address to the king, to know who advised him to ratify the preliminaries before he had communicated them to parliament; but it can be no argument for enquiring into the last treaty of peace, and much less for an enquiry into negociations long previous to that treaty.

For this reason, Sir, I cannot think, it was very proper, in this debate, to talk of our having been any way treated in a contemptuous manner, with regard to the late preliminaries; and, if the hon. gentleman who spoke last, or any other gentleman, should think fit to move for such an Address as I have mentioned, I believe, I shall be able to shew, that the presenting of such an Address would be one of the most flagrant encroachments upon the prerogatives of the crown, that we could be guilty of, and that nothing could be more inconsistent with our constitution and the maxims of true wisdom, than our presuming to offer such an Address to our sovereign. The power of making peace and war is by our constitution most wisely lodged solely in the crown, because in both it is absolutely necessary to keep our designs secret, till the moment of their execution. Even in that of making peace, if the motives upon which we agree to it, were discovered to the enemy, it might render it impossible for us to procure so good terms, as we might otherwise do; and at the time of the treaty of Utrecht, and the negociations previous thereto, if the motives which then induced our ministers to make peace had been kept a little more secret, I believe, they might have procured better terms than they could afterwards obtain. Their conduct therefore, and the consequences of it, can never be an argument with any minister to advise, or any wise parliament to desire, a communication of preliminaries towards a peace.

And with regard to the last preliminaries, Sir, if the misfortunes of the war had brought us, or our allies, into such circumstances, as to render it absolutely necessary for us to accept of the preliminaries then offered, it was the wisest thing his majesty could do, to ratify them, without having previously communicated them to parliament, because he could not well have ratified them after their being rejected by parliament; and in order to obtain the approbation of parliament, those circumstances must have been explained and publicly declared, which made it necessary for us to agree to them; which circumstances, had they been known to the enemy, might have made them recede from what they had before offered; and every one knows, that till the exchange of the ratifications, both parties are at full liberty to recede entirely from the terms they had before offered, or to qualify them in such a manner as to render them very different from what they were before. I therefore hope, Sir, we shall hear no more of the contemptuous manner in which we were treated, with regard to the late preliminaries; but let that be as it will, it can be no argument for our agreeing to the present motion.

Sir *John Hynde Cotton:*

Sir; I shall so far agree with the hon. gentleman who spoke last, that in our present circumstances, it is not easy to assign a reason for making or supporting any motion that may seem disagreeable to our ministers, because in any such motion no gentleman can with the least confidence expect success; but, Sir, I shall always treat my country, as I would treat my friend; and as I would in any case of importance give my friend my best advice, though I had a moral certainty that he would not follow it, so I shall never neglect moving or supporting, in this House, what I think right, notwithstanding my having a moral certainty of its being rejected. This is my reason for standing up in support of the present motion; for whatever was the noble lord's motive for making it, I think it a motion we ought to agree to; and even supposing, that his design was to raise a popular clamour, it is a design that may be justified, because what the hon. gentleman calls a popular clamour against his majesty's government, I call a popular clamour against a minister's administration; and when we have a wicked or weak minister at the head of public affairs, the only legal way of getting rid of him, is to raise such a popular clamour as may influence every election against him.

Now, Sir, as to the merits of the motion under consideration, I must confess, that our bad success in the motion relating to the treaty of Hanau leaves me very little hopes of succeeding in this, because the only material argument I heard against that motion, was the danger of discovering something that ought to be kept se-

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cret, which is an argument equally pressing against every parliamentary enquiry, except such as may be set on foot against a parcel of excisemen, or a society of stock-jobbers; and the only hopes I have, proceed from the extent of this argument; for when gentlemen are made to perceive the extent of it, by hearing it so often repeated, and applied to every motion for an enquiry, they may at last conclude, that it is an argument which ought never by itself alone to be regarded; for what signifies our right to enquire, if an argument be admitted, that must always render the exercise of that right impracticable.

But the hon. gentleman says, that though we have a right to enquire, we ought never to exercise that right when no national benefit is from thence to be expected; and he was pleased to add, that no gentleman had attempted to shew, that any national benefit could arise from the enquiry proposed. Now to satisfy him in this particular, I shall beg leave to suppose, that we have now, and had during the whole course of the late war, a set of ministers who knew not how to concert or conduct a war, nor how to negociate or conclude a peace: that by their ignorance of the interests and views of the several powers of Europe, we lost some who might have been made our allies, and made enemies of others that might have been made to observe a strict neutrality: that in cases of no moment were most extravagant, and in cases of the utmost consequence to the success of the war, most penurious: that considered nothing in the management of the war but how to enrich their friends, and secure their influence in parliament, in order thereby to establish their power, and even to set their sovereign at defiance: and in short, that either by their weakness or wickedness, were the authors of all the misfortunes we met with in the war.

If we have now, Sir, such a set of ministers, would it not be a signal benefit to the nation, to have such ministers dismissed, and the administration put into abler hands? Is it not much better for a nation to be under the government of able rogues, than weak fools? The former will take care of themselves, and will for their own sakes take some care of the nation; but the latter are incapable of taking care either of themselves or the nation. The hon. gentleman has himself acknowledged, that the late treaty of peace was not such a one as we could have wished, but such a one as the misfortunes of the war made necessary: how shall we know whether or no those misfortunes proceeded from the misconduct of our ministers? From the example of the Romans, who took happiness for wisdom, I must presume, that they did; and if so, is it not of the utmost consequence to the nation to get rid of such ministers? The late war has cost this nation above 60 millions sterling, and now it is ended by an infamous peace, we are told by those who conducted it, or were concerned in conducting it, from its commencement to its final period, that the misfortunes of the war made that peace necessary. Shall we be told this, Sir, without making the least enquiry into the cause of those misfortunes? Can we make such an enquiry, without having the papers now moved for, and a great many others, laid before us? No consequence can be so bad as our neglecting to make that enquiry: we may easily, notwithstanding such enquiry, guard against the discovery of any important secret; and if all our misfortunes in the war proceeded from the weakness and bad conduct of our ministers, we can expect no compliance from, we may expect to be trifled with and insulted by the courts both of France and Spain.

Therefore, Sir, if our commerce with Spain be exposed to be ruined by high duties, which it certainly is more than when the war began: if our merchant ships remain exposed to be searched, and seized on account of what the Spaniards call contraband goods, which they certainly are more than when the war began, an enquiry into the conduct of the war and negociations of peace is the more necessary, that we may free our ministers from that presumption of weakness which is now so strong against them, or otherwise, that we may free the nation from suffering any longer by their weakness.

I have said, Sir, that both our commerce and merchant ships are now more exposed than they were before the war, and in this I must be justified by every one who considers, that when a war breaks out between any two nations, all former treaties are at an end, and none of them are restored, nor any article in any of them, but such as are expressly mentioned and declared to be revived by the next treaty of peace; therefore, with regard to our commerce with Spain, it is now upon a worse footing than it was before the war, because the treaty of commerce in 1715,

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is not revived by the last treaty, nor are we now entitled to any of the privileges or immunities granted us by that treaty. And with regard to our merchant ships, the treaties of 1667 and 1670 are revived generally without any amendment or explanation, though every one knows, that from these treaties the Spaniards claimed before the war a right to search our ships in the high seas, and to seize and confiscate ship and cargo, if they found on board any thing of what they are pleased to call contraband goods. This right we have by our late treaty of peace tacitly acknowledged, in so far as we have agreed to revive those two treaties, without obliging them to give up their claim.

These, Sir, are objections against the late peace which appear upon the face of the treaty, and objections of such importance to this nation, that they throw the labouring-oar upon our ministers, who must stand condemned, and will by every true Englishman be thought to deserve the highest punishments their country can inflict, unless they can shew, that by unforeseen accidents, and unmerited misfortunes, in the war, we were reduced to such distressful circumstances, as to be obliged to sue for peace, and to accept of any terms our victorious enemies were pleased to prescribe. But the hon. gentleman has been pleased to tell us, that these are points of commerce, which are never settled in a general treaty of peace, but are left to be settled afterwards by a treaty of commerce. As to the point of searching our ships, Sir, I must deny that it is merely a point of commerce, and as it was the cause of the war, it ought certainly to have been the first point settled in any future treaty of peace between us and Spain. I must likewise deny, Sir, that points of commerce are left to be settled afterwards by any nation that has a regard to its commerce, as will appear from all the famous treaties of peace concluded in Europe for a century past. At the peace of Nimeguen, the treaty of peace and the treaty of commerce between Holland and France were signed the same day. At the peace of Ryswick, between those two powers, the case was the same. At that time indeed I shall grant, that no care was taken of the trade of England; but at the peace of Utrecht some better care was taken of our trade; for our assiento treaty with Spain was signed some months before our treaty of peace with that nation; and our treaty of peace and treaty of commerce with France were signed the same day; so that points of commerce were not left to be settled afterwards even by that treaty, which has since been so much exploded by some sort of people, though a great deal better than any that have been made since; and if the treaty of commerce then settled with France had not been rejected by a party in parliament, I am convinced, that neither the trade nor manufactures of that kingdom would have ever been in so flourishing a state as they were before their last declaration of war against us, and will again be in a very short time, as by the last peace we have left them in possession of all the advantages they before enjoyed, and with a higher character and greater influence in every part of the world than they ever had before.

What effect this may have, Sir, upon their marine, I know not; but if our affairs should remain a few years under the conduct of those who managed the late war in such a manner, as to render it necessary for us to accept of such a peace, I dread the consequences, especially, if a new war should be commenced and carried on under the same auspices. I am afraid, we may be taught by experience, that our navy is not invincible; and if ever that should happen, our navigation, our commerce, our independency, will be at an end; for, I believe, the French would prescribe the same terms to us that the Romans prescribed to the Carthaginians, after the end of the second Punic war, "Et naves rostratas, præter decem triremes, traderent, elephantosque, quos haberent domitos; neque domarent alios;" that we should deliver up to them all our ships of war, except a few frigates, and should build no more without their leave. Some gentlemen may, perhaps, expect, that to this I should add Popery and the Pretender, as usual; but if the French should ever be able to reduce us so low, I believe, they would give themselves very little trouble about who was our king, or what our religion; for they are too good politicians to concern themselves with either, except when it suits their immediate interest.

As the conduct of the late war, and the conclusion of the late peace, have given too much ground for such apprehensions, I am not at all surprised, Sir, that the ministers who conducted the war, and negociated the peace, took care to advise his majesty, not to lay the preliminaries

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before parliament, though sitting when those preliminaries were agreed to and ratified; and I shall allow, that by our constitution they were no way bound to do so: nay, I will allow, that in this respect our constitution is, as in most others, a right one, and founded upon the truest maxims of political wisdom; but considering the unanimous vote of both Houses in a former session of parliament, it must be allowed, that it was a very bold step in our ministers to advise the king to ratify preliminaries which were so contradictory to the sense of parliament, without so much as asking, whether we thought that the misfortunes of the war had made it necessary to depart from that resolution. When I say this, I suppose every gentleman must know, that I mean the resolution which this House came to in the session 1739-40, and in which the other House concurred, to address his majesty never to admit of any treaty with Spain, unless an acknowledgment of our right to a free navigation in the American seas should be first obtained, as a preliminary thereto, which Address was accordingly presented in the most solemn manner by both Houses; and his majesty's answer was, That we might rely on his utmost care and endeavour, to obtain effectual security for our just rights of navigation and commerce.

I say, Sir, when we recollect this, we cannot wonder at our ministers being afraid to communicate the late preliminaries to parliament; but now that the treaty is laid before us, I am sure all England, nay, all Europe, will be amazed, if the parliament should take no notice of, nor make any enquiry into that conduct which reduced his majesty to the necessity, not only of treating, but of concluding a treaty of peace with Spain, without so much as a word mentioned, either in the preliminaries or definitive treaty, of that dispute which was the cause of the war between the two nations. I therefore think, that in common decency we cannot avoid making an enquiry into the late treaty of peace; and for this reason I shall be for this motion, and for every other motion that has a tendency that way.

The House then divided; when there were 120 for the motion, and 181 against it. So it passed in the negative.

*Debate in the Commons on the Mutiny Bill.*] Feb. 7. The Mutiny Bill was brought in by Mr. Fox, secretary at war. At first very little notice was taken of it; but, upon considering the clauses separately, it was found that several innovations had been introduced from what it stood last year, which gave great offence. An amendment was offered by the opposition, for having court-martials composed only of such officers then on duty in their respective regiments, from whence they are summoned, whose turn it may chance to be at the time of the appointment of such court martial. This Amendment was strongly insisted upon, as making court-martials more equitable, and bringing them to a nearer conformity with juries in civil cases. But the ministers said, that it would intrench too much upon the powers of commanders in chief; and it was therefore rejected upon a division of 223 against 130. Copies of all the articles of war, since the reign of Charles 2, were called for, and laid before the House; and the prince of Wales's servants joined with the opposition to all the clauses that seemed to vest any dangerous power in the head, or heads of the army. They particularly insisted, that it should not be lawful "for any commander in chief, or commanding officer, to require any court-martial, or, for any court-martial, so required, to revise or correct, on any pretence whatsoever, a sentence legal, according to this act, and to the articles of war, once given by such court-martial." This article bore a sharp debate; and it was urged to be against natural equity to subject any man to two trials for one and the same fact, which must be the case, if revisals of sentences of courts-martial should take place, so as to inflict a severer punishment. Such of the lawyers of the House as were in the opposition, gave that as their opinion very strongly. But it was answered, that even in civil cases, a judge has been known to desire the jury to re-consider their verdict, and that they had brought in one more severe than what they had given before. Besides, as no abuses of that kind were pretended or complained of, it was thought, that the clause intimated a kind of indecent reflection upon the heads of the army; and therefore it was carried in the negative, by a majority of 211 against 123.

But the greatest debate upon this occasion regarded the last clause of the Mutiny Act, which was entirely new, and ran as follows: "And whereas it may be otherwise doubted, whether the officers, and persons employed in the trains of ar-



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tillery, or the reduced officers of his majesty's land-forces or marines on the British or Irish establishment on half-pay, be within the intent and meaning of this act, for punishing of officers and soldiers who shall mutiny, or desert his majesty's service, and for punishing false musters, and for payment of quarters: it is hereby enacted by the authority aforesaid, that the officers or persons employed, or that shall be employed, in the several trains of artillery, or reduced officers of his majesty's land-forces or marines, on the British and Irish establishments of half-pay, be at all times subject to all the penalties and punishments mentioned in this Act, and shall, in all respects whatsoever, be holden to be within the intent and meaning of every part of this Act, during the continuance of the same."

This Clause was represented in a most dreadful light, as being highly dangerous to the constitution, and as increasing the number of officers depending upon the crown, and subject to military law. On the other hand, it was thought highly advisable to subject all officers to military law, because it rendered them subject to discipline; and it was pretty clearly proved, that officers upon half-pay were originally deemed, though not in actual service, to be subject to martial law. "What danger," said Mr. William Pitt (who was at this time pay-master-general) "can happen by obliging a half-pay officer to continue upon the military establishment? It is admitted on all hands, that while he is in full-pay, he must employ his time, his study, and even his sword, as his superiors shall direct. There may possibly be danger in this: but it never can happen till the direction becomes wicked, nor prevented, but by the virtue of the army. It is to that virtue we even, at this time, trust, small as our army is; it is to that virtue we must have trusted, had this Bill been modelled as its warmest opposers could have wished; and, without this virtue, should the Lords, the Commons, and the people of England intrench themselves behind parchment up to the teeth, the sword will find a passage to the vitals of the constitution."

March 1. Upon the last clause of the Bill, a motion was made to amend it, so as to render half-pay officers subject to the act, only in case of actual war, insurrection, rebellion, or invasion; but upon a division, the motion was rejected by 203 to 137.

The Committee having gone through the Bill, the lord Dupplin, their chairman, reported the amendments to the House on the 6th, when they were taken into consideration; and, upon the oath to be taken by the members of the court-martial, as well as upon that to be taken by the judge-advocate, a motion was made for inserting the words "Unless thereunto required by the courts of justice in such cases, where they have now by law a right to interfere, or by either House of Parliament"; but the motion was on both rejected; on the first by 153 to 126, and on the last by 175 to 103. After which, the farther consideration of the said Report was adjourned until next day; when a Clause was offered for providing, that no court martial, after sentence once given, shall, upon pretence of revising or correcting the same, or upon any pretence whatsoever, render the sentence more severe; but the Clause was rejected, upon a division, by 140 to 103. And upon the last Clause in the Bill, a motion was made for subjecting half-pay officers to the act, only when his majesty should issue his royal proclamation requiring their service; but this too was rejected by 158 to 100; after which the Bill was ordered to be engrossed.

March 9. The Bill was read a third time, when several Amendments were made, and a new attempt was made to get the oath of secrecy altered, by inserting the words "Unless thereunto required by either House of Parliament;" but it was again defeated, upon a division, by 101 to 68. The Bill was then passed, and sent to the Lords.

Immediately after it had passed the Commons, Mr. Thomas Pitt moved, for leave to bring in a Bill to limit respective times, beyond which no non-commissioned officer or soldier, now, or who hereafter may be such, in his majesty's land-service, shall be compelled to continue in the said service. The motion was seconded by sir F. Dashwood, but very poorly supported in numbers; and at last, on the 19th of April, it was, upon a division of 139 against 82, put off for two months, so that it was lost for this session.

*Debate in the Commons on the Bill for subjecting Half-Pay Naval Officers to Martial Law.**] February 1. Lord Barrington brought in a Bill "For amending,

* From the London Magazine.

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explaining, and reducing into one act of parliament, the laws relating to his majesty's navy." The chief design of this Bill was to render the Half-Pay Officers subject to Martial law, in the same manner as if they were on whole pay.

February 24. A Petition was presented against it by sir John Norris and supported by sir Peter Warren, setting forth,

"That in the Bill, depending in the House, for amending, explaining, and reducing into one act of parliament, the laws relating to the government of his majesty's ships, vessels, and forces by sea, there are several clauses contained, which, should the same pass into a law, would, as the petitioners apprehend, greatly tend to the injury and dishonour of the petitioners, and all other officers of his majesty's navy, as also to the detriment of his majesty's service; and that, as the present laws for the government of his majesty's navy have been always found sufficient for that end, and the power of the lord high admiral, co-operating with the zeal of the sea-officers, hath been hitherto effectual to secure the service of those on the half-pay upon the most pressing occasion, the petitioners hope they shall not be subjected to many hardships and discouragements that must attend an alteration of the present laws, with regard to them, in many particulars: and therefore praying, that they may be heard by their counsel, before the Committee of the whole House, to whom the said Bill is committed, against such parts thereof as they apprehend will be injurious to themselves, and the rest of the officers of his majesty's navy; or that the petitioners may have such other relief as to the House shall seem meet."

This Petition was signed by three admirals and 47 captains. After it was read, the first motion was for referring it to the consideration of a Committee, and the petitioners to be heard before the same by their counsel, if they thought fit; but this being waved, because it was said, that the Bill might be so amended in the Committee, as to remove all the objections the petitioners had to it, and a motion being made for the Petition's being ordered to lie on the table, it was moved, by way of Amendment, that it should be ordered to lie on the table, "until the Report be received from the Committee of the whole House, to whom the Bill for amending, &c. is committed, and that the petitioners be then heard by their counsel upon this Petition, if they thought fit:" But this Amendment was opposed, and the House divided, and the question was carried against the Amendment by 227 to 121.

March 3. The House resolved itself into a Committee on the said Bill, as it did again on the 8th, 10th, 13th, 14th, 21st, 23d, April the 5th, 7th, and 10th; during which time there were several long debates upon Amendments offered and rejected, the chief of which were as follow, viz. March 3, a motion was made to leave out the words "as well in time of peace, as in time of war;" in the clause which establishes the article of war; and the question was put, if those words should stand part of the Bill, which was carried in the affirmative by 186 to 113.

A motion was made by lord Limerick, for reserving a portion of the captures of merchants ships, in order to encourage the taking of ships of war. This was sharply opposed by

Admiral *Vernon*, who spoke as follows:*

Sir; as I cannot, without more than common attention, hear the debates upon a question, that regards the service in which I have had the honour to pass the greatest part of my life; and as my experience of the importance, influence and strength of the British navy, determines me to consider, as a motion of great consequence, whatever is offered to this House for its regulation, I cannot prevail with myself to sit silent on this occasion. The great bulwark of this nation, Sir, is our naval force; a bulwark, which, if kept carefully repaired, is capable of excluding our enemies for ever; and, in truth, the only fortification by which we can be able to preserve that security which is the foundation of public happiness. This particular service, so necessary to the very existence of this government, lies at present under sufficient hardships and disadvantages; let us take care how we subject it to any further or greater inconveniences, lest they should render the service insupportable to our sailors, which must end in the utter ruin of this country. Yet such inconveniences, the regard which I have for the two noble lords, who made and seconded the motion, will not hinder

* This Speech is from the Gentleman's Magazine.

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me from discovering in their proposal, which, if in an evil hour it should pass into a law, will break the spirits of the British sailors, too much depressed already, by taking away a part of that reward, which the legislature has thought fit to confer upon them, and by the hope of which, they are supported in the innumerable dangers and hardships which they daily undergo; and undergo, give me leave to say (I speak of the common sailors) with an alacrity, courage and cheerfulness, which can hardly be expected from men, whose miseries are hourly aggravated by oppression; and who have, therefore, so little reason to love the community for which they suffer. Their reward will, by a law like this, be taken away, and taken away without any reason, or any advantage. For it may be considered as certain, that no man of spirit will omit an opportunity of attacking, taking or destroying the enemy's ships of war, for the sake of his country, for the sake of his own reputation, and for the fear he must be in of an ignominious punishment. If all these motives together, if any one of them separate, is incapable of working upon him, he must be so far lost both to the sense of honour and shame, or, in other words, his fear must be so predominant a passion in him, that you can never have any hopes of inducing him to perform his duty by any rewards. Our sailors are already, by the nature of their employment, exposed to difficulties which we cannot relieve, and to hardships which we cannot redress; they endure, by the defective constitution, or improper conduct of our navy, many additional miseries, which I would contribute the utmost in my power to mitigate; but I can never give my consent to add to the calamities of a naval state, or to heap new burthens on it.

It seems rather necessary, Sir, to take into our consideration the service of the sea, and to appoint a Committee to enquire into the cause of the present navy debt, that we may at last understand the reason why the present sea-tickets bear such an enormous discount, and why the poor sailors and their families are forced to take up their wages at the loss of above half the sum for which their notes are given; a grievance surely worthy the consideration, worthy the attention, and infinitely worthy the redress of a British parliament; since, by a careful and effectual redress, it would save a prodigious number of honest, innocent, industrious and useful persons from starving. The enormity of this destructive discount, is so great a discouragement to the naval power, that, in a little time, it will be impossible to carry on the service. Let us not, therefore, lose, in airy projects, or pernicious experiments, that time, which the pressing misery demands to be laid out on its relief.

This is, however, not the only, nor the greatest hardship of our sailors; there are other corruptions that require to be stopped, or defects which need to be supplied. Our fleets, which are defrauded by injustice, are first manned by violence, and maintained by cruelty. When our ships are to be fitted, an impress is sent into the streets, to bring those, who shall fall in the way, by force into the vessels; from that time they are, in effect, condemned to death; since they are never allowed to set foot again on shore, but turned over from ship to ship, and when they have finished one expedition, hurried into another, without any regard to the hardships they have undergone, or the length of the voyage; so that they must live upon salt provisions, without their pay, till they shall be consumed by the scurvy, or die of some other distemper, which they have contracted by the hardships they have suffered, and the provisions on which they have been obliged to subsist: a practice so horrid and barbarous, that it is sufficient to deter any one from entering into the service at all, and to oblige those who are so unfortunate as to be engaged in it, to desert to the enemy, or fall upon the most desperate means to set themselves free from such dreadful servitude. Nor can it easily be guessed, why it has not provoked the sailors to some universal mutiny, which might produce the utter ruin of this kingdom; a consequence, which every day may be supposed to bring nearer, as the same cruelty grows perpetually more hateful by daily repetition.

Here, Sir, is a grievance which cannot be mentioned without horror, or remain unredressed without the greatest danger, and the most flagrant guilt. And, surely, it is an enquiry well worthy of this House, whether the royal navy may not be supplied by milder methods; for if any more convenient way can be found, and we neglect to use it, we are guilty of no less than the murder of those poor wretches, besides the loss of their service, and the danger of their revolt. All new discouragements, therefore, such as are now



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proposed, can have no other effect than that of making misery insupportable, and of heightening discontent to desperation.

But let us enquire whether the original reason of the motion be not unjust, and whether the first positions have not been too hastily advanced. It is affirmed, but hitherto without proof, that our sea-officers have been very diligent in taking rich prizes from the enemy, and at the same time extremely remiss and negligent in the attacking of ships of war; a reflection too general to be easily made out, and too severe to be silently admitted. I have been too long engaged in naval affairs, not to know several of the sea-officers: I have, by those opportunities of knowing them, found them to be men who would omit no opportunity of being serviceable to their country; and, to appeal from imagination to certain facts, several of them have shewn as much alacrity in attacking ships of war, as they have in taking merchant ships; nor do I doubt but the rest are ready to do it, whenever occasion shall offer. That this is the character, which at least some of our officers deserve, is proved by the gallant behaviour of several, and particularly captain Brett. Did these gentlemen behave as if they wanted further encouragement to perform their duty? Did they not attack ships of superior force to their own, and with such courage and skill as bring honour to themselves, their country, and the British flag? they shewed, that at least they wanted no new incitements to their duty, and that they thought merit desirable, without the recommendation of any new reward; and this, Sir, would be the behaviour of every sea officer, if a proper regard was shewn to desert in granting commissions; but I am afraid, that, during several of the last years, merit in an officer has been the least thing considered in his promotion; and, when once that comes to be the case, how can we expect to see things in a better situation?

Here, Sir, is another grievance, which requires our serious and impartial examination; for, though I think I could be answerable for the behaviour of most of our old sea officers, I would not rashly venture to promise in favour of gentlemen who have lately been honoured with commissions, to the prejudice of those officers who have served the crown long and faithfully, and who have been displaced in favour of this new set, not for want of military skill or courage, but of interest in boroughs and corporations; an interest which, in the present knowing age, has been discovered to be of more use than any other, sufficient to supply the defect of any other skill civil or military, and immediately to render a man equal to any employment. This interest is sufficient, not only to supply merit, but to excuse faults; not only to procure advancement, but to hinder degradation, however deserved, and to justify those, of whom every other motive of judgment would enforce the condemnation. A stop ought to be immediately put to this pernicious practice; for if it were once known, that preferment were still to accompany merit, and disgrace be the consequence of cowardice, you would soon see a general reformation.

An hon. gentleman was pleased to say, that we could never expect justice from a court-martial; that at Deptford, after sitting so long a time, having at last done nothing. Now I must beg leave to differ with him, in my sentiments on that affair; for I will take upon me to say they have done a great deal. I am sure, Sir, (and I appeal to every one who understands any thing of maritime affairs) that they have plainly pointed out where the fault lay, in every particular instance. Whether the sentences they have passed have been adequate to the crimes, is another consideration, for which the present is no proper time. As to other court-martials, the hon. gentleman may perhaps have carried his censure too far; for I have been concerned in several, where, as far as I have been able to judge, justice has been administered in the most exact and impartial manner. Their sentences have been without reproach; but if, afterwards, those sentences have been revoked or mitigated, that cannot be said to be the fault of the court-martial. When I commanded the fleet in the Downs, last year, I granted a commission for the trial of a captain of marines, his name I have at present forgot, for misbehaviour and cowardice aboard captain Brett's ship, the Lion, in her engagement with the Elizabeth, a French man of war. The captain, who was president of the court-martial, I well know to be a person of great candour, humanity and tenderness, who would consider every thing the criminal could offer for his defence in the most favourable manner. But, after a fair and impartial trial, he was found guilty, from the strongest proofs of the facts laid to his charge, and accordingly received sentence

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of death. Here, Sir, the power of the court-martial was at an end; the execution of their sentence depended on other decisions, by which it was changed into banishment, somewhere or other, into some region perhaps of happiness; for in what other terms can I mention banishment into Guernsey or Jersey, where he may live better with his infamy, than merit could have enabled him to live in England?

Another instance of the impartiality of courts-martial, was the case of Phillips, lieutenant of the Anglesea man of war, which was taken by a French privateer. The captain being killed at the beginning of the engagement, the command in course devolved upon the lieutenant, who struck to the French ship in a most scandalous manner. For this, Sir, he was tried, the fact plainly proved; he was condemned to death, and executed according to his sentence.

It appears, therefore, that the foundation of this motion fails us, and that there is no such neglect of duty at sea, or, indeed, neglect in our courts-martial, as has been supposed; but, that this zeal for amendment may find employment, let us examine a little into the land service, in which many grievances seem to call for reformation. At sea, several services of consequence, of very great consequence to the kingdom, have been performed since the commencement of the war. At land, not any have been undertaken with success, and yet we seem determined to go on, in spite of nature and fortune. And since it has been our fortune to mention martial-courts, let us enquire into courts-martial by land, and see what has been done there; what examinations they take, and what sentences they pronounce. This will be found a large field for enquiry, and perhaps for censure. What has been the result of the famous court-martial, lately held at Whitehall, to enquire into our late and almost fatal miscarriages in the north? Has it not been such a one as, I believe, never was known before? Have they not acquitted all those whom they tried, though several important witnesses were confessedly in Scotland? Here is, indeed, a mockery of inquisition, worthy of the intervention and examination of parliament. But I never yet found that any of the sea-officers, I mean such as deserve the name of officers, ever wanted any encouragement to attack the enemy's ships of war at any time. I am sure I never dreamt of any such thing myself, nor I believe any of the officers under me; and yet there were no less than eleven ships of war taken and destroyed, during the time I had the honour to command a squadron in his majesty's service, in the West Indies. There were six ships of war taken at Carthagena, three at Porto-Bello, and two sloops at Chagree; and I'll take upon me to say there never was a brass farthing received for any of them. Sir, I am afraid this proposition may be attended with much greater evils than any I have yet hinted to you. I am afraid, if such an act should pass, it would put a very great power into the hands of the ministry; and ministers are a sort of persons in whom, I must own, I have no very great faith. Sir, I am one of those who verily believe a future judgment; but, Sir, I am an enemy to all implicit faith, and especially to implicit faith in ministers. Now, Sir, I look upon the passing such a Bill as is proposed to you, to be taking a great step towards placing implicit faith in a minister; since it is giving a large sum of money into his hands, to be disposed of at his pleasure; it is giving an additional power of corruption into his hands, where too great a power is lodged already. I can, indeed, consider the scheme before us, as no other than the establishment of a fund for corruption; an opportunity given to persons in power of embezzling a great part of the money which is justly the due of the poor sailors; for what can be expected but endless frauds, when it is to pass through the hands of dirty clerks, and low tools in office?

There is one thing, indeed, which ought to be amended; a very unequal distribution is made of the prize money between the officers and sailors; the sailors' part bearing no manner of proportion to that of the officers. By increasing the share of the sailors, you will increase their spirits and resolution. Let us, Sir, undertake something that may be of service to the fleet, instead of distressing it further: let us find out some method to prevent the death of so many men who daily perish for want of refreshments; and, for this end, let us resolve at least to change the present hateful method of impressing.

Such a method is not difficult to be found; for, in the last session of parliament, a scheme was started, which would, in a great measure, have manned our fleet; and, at the same time, have prevented a most grievous evil, the pernicious practice of smuggling. The smugglers, Sir, not

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only exhaust our national wealth, and carry it to our enemies, but at the same time, what is of infinitely worse consequence, they carry them intelligence of every step that is taken in this kingdom; so that they at once destroy our wealth, and our honour, and produce at once beggary and defeats. Nor can they bring back intelligence from our enemies; for upon their being admitted into the French ports, they are examined by the intendant, who, after he has received from them all the information they are able to give, swears them not to discover what they see there.

These wretches might not only be suppressed, but made useful, by the method then proposed; but that method was rejected, and another taken, which ought rather to be called an encouragement than a check: what reason could be urged for this conduct, I know not; but it is the general opinion without doors, that the smugglers have powerful protection somewhere; and nothing has been yet done, by which that opinion can be weakened.

But, Sir, this is not the subject of debate at present; and, therefore, I hope it will be examined into at a more proper time. I hope that a time will come, when a committee shall be appointed to consider the state of the navy, and the cause of the vast debt with which it is at present incumbered, and to propose methods proper for the more easy and speedy manning of the fleet; and that the poor sailors may receive their wages without paying a premium of above one half, for the advance of the rest: these are enquiries, these are proposals, in which I have long wished to see the House engaged, and in which I shall be glad to give all the assistance in my power. Whatever may tend to alleviate the distresses of the poor sailors, I shall eagerly embrace; but I will never give my consent to any thing that may make their burthen still greater, which would be the effect of the present scheme.

April 5. In the first draught of the Bill the oath to be taken by the members of a court-martial was, "That none of them should discover the vote of any particular member, unless thereunto required by lawful authority;" therefore in the committee a motion was made to leave out the words "lawful authority," in order to insert these words, "the courts of justice in such cases where they have now by law a right to interfere, or by either House of Parliament." As to leaving out the words "lawful authority," no objection was made, but it being proposed to insert in their room the words "Act of Parliament," it occasioned a long debate, in which the general necessity and scope of the Bill were thoroughly canvassed. At length the question was put for inserting the words "act of parliament," which was carried by 111 against 67.

The substance of the Arguments upon the general necessity, and scope of the Bill, were as follow:*

Against the Bill.

Sir; in all wise governments it is a standing maxim not to make any new law, unless there appears to be a necessity for so doing; and therefore, with regard to the Bill now before us, there are two questions necessary for our consideration, which are, first, Whether a new law be necessary for the government of his majesty's ships and forces by sea? and, secondly, Whether the Bill now before us be such a one as ought to be passed into a law? As to the first question, it must be owned, that we have always had a very great regard for the law passed in the 13th of king Charles 2. It was a law concerted by as great men as ever were at the head of affairs in this kingdom, and under that law our navy has been governed for near 90 years, without any complaint, and with more glory, than will be acquired under any law that can be substituted in its room. That law was drawn up by the great admiral Montague, soon after earl of Sandwich, who had before shewn himself an excellent officer both by sea and land; and it was approved of by the lord chancellor Hyde, the marquis of Ormond, Denzil Holles, sir Anthony-Ashley Cooper, afterwards earl of Shaftesbury, and several other great men, who were of the king's council, before it was offered to either House of Parliament for their approbation. It was granted, that it had some defects, as every human law must have, and laws have since been passed for remedying those defects; but, in my opinion, none of them have answered the end intended; and those defects were thought so trivial, that both the Dutch wars in the reign of Charles 2, and the French war in that of king William, as well as that in the reign of queen Anne, were carried on, and gloriously carried on, without any law for remedying those defects, except that law made in the

* From the London Magazine.

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beginning of king William's reign, which appoints an oath to be taken by the judges in every court-martial; and whether such an oath be of any service or no, may be doubted; because a man who is so wicked as to resolve to act unjustly, will shew no regard to that or any other oath that can be framed by the legislature.

It was therefore observed, that from 1661 to 1720, our navy was governed by that law of king Charles 2, without any material alteration or amendment; but in 1720, we began to think of extending the power of courts-martial, and with this view a clause was inserted in an act then passed, by which it was enacted, "That seamen guilty of any of the offences mentioned in the act of the 13th Charles 2, upon the shore in any foreign parts, should be tried and punished by a court-martial." Now, to determine whether this was an amendment or the contrary, we must consider, that by the act of Charles 2, the jurisdiction thereby given to courts-martial is expressly confined to such of the offences therein mentioned as should be committed upon the main sea, or in vessels hovering in the main stream of great rivers, only beneath the bridges nigh to the sea, within the jurisdiction of the Admiralty, and only by persons in service and pay in the fleet, or ships of war. So that if any of those offences had been committed upon the shore, or at land, even in foreign parts, not within the British dominions, the offender was to be brought home, and tried by the common law; or if committed in any of our plantations, he was to be tried by the common-law courts established in that plantation.

Thus we see how careful the parliament was, in 1661, of encroaching upon the liberties of the subject, the chief part of which consists in their being tried, when accused of any crime, by God and their country; that is to say, by an impartial judge, and a jury of their neighbours in the country; and in their not being subjected even to a trial, till a jury of neighbours has found sufficient cause to suspect their being guilty, by finding the bill of indictment against them. And if we consider the circumstances of affairs at that time, we shall have still greater reason to extol the caution of that parliament; for though they in some cases shewed too much complaisance to the crown, yet with respect to the army and navy, their complaisance, even in the honey-moon of the Restoration, was far from being extraordinary. The court were then pushing for a Mutiny Bill with regard to the army, but the king's ministers foresaw that it would be impossible to prevail with that parliament to establish a standing army by law, therefore they compounded the matter, and contented themselves with obtaining this, which is a sort of Mutiny Bill with regard to the navy, and this they took care to confine in the manner already mentioned.

It was indeed, admitted, that with regard to offences committed on shore in foreign parts, not subject to the crown of Great Britain, the Bill was too much confined, because such offences ought, I think, to be made triable by a court-martial of the squadron to which the offenders belong, and this was the defect which was made the pretence for the law in 1720; but our parliament was then grown so very complaisant, that they extended the jurisdiction of courts-martial to offences committed on shore in any foreign part whatever, by which they have made a most dangerous encroachment upon the civil power in all his majesty's plantations; therefore this may be called an alteration, but it cannot be called an amendment.

From 1720, to 1745, there was no new law introduced that can be properly called a law, for regulating the government of his majesty's navy; but in that year some gentlemen, who had just got into the administration, began to be possessed with the spirit of lawgiving, which made them discover several defects, never before thought of in our laws for regulating the government of the navy; and to remedy those defects, they cooked up a Bill, which was that session passed into a law; but how did they succeed? Why, but last year they were forced to give us a new specimen of their cookery, and to bring in and pass a Bill for repealing the law they had made but three years before; and now they have brought in a Bill not only for repealing the law they made last year, but also for repealing all the laws now in being for regulating the government of the navy.

This seems to be no great encouragement for us to accept of any more specimens of their cookery, especially this, which is to destroy what the navy has gloriously subsisted on for many years. If they had confined their Bill to the repealing of all the laws made since 1661, for the government of his majesty's navy, we should have consented to it; because every

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alteration since, has made the case worse instead of better. King William's law for appointing an oath to be taken by the judges has only added perjury to injustice; and we should rather chuse to have offences committed on shore in foreign parts remain unpunished till the offenders could be sent home, than to have the civil power in all our plantations divested of the right to try and punish seamen for offences committed within its jurisdiction. Even that clause in the act of the 8th of the late king against piracy, which subjects the captain of a king's ship to a penalty, who shall receive on board any merchandize, in order to trade with the same, is very unnecessary; because it is in the power of the Admiralty to cashier or dismiss any such merchant captain with infamy from the service. And as to the novelties introduced by the law passed last year, every one of them is either useless or of pernicious consequence.

As to these novelties, we shall take notice of some few of them; and first, as to that by which it is enacted, That no commander in chief of any fleet or squadron, or detachment thereof, shall preside at any court-martial in foreign parts, we really think it ridiculous. Will you, or can you think the king ever will trust the command of a fleet or squadron to a man, who is not fit to be trusted with presiding at a court-martial? To pretend that the chief commander, by being president, may influence the court to do as he pleases, is contrary to experience. We know an instance to the contrary. A chief commander, who was in his nature a little passionate and full of resentment, had appointed a court-martial to try a man who had offended him. He was himself president, as by the old law he was of course; and after the fact had been enquired into, and the witnesses on both sides examined, he was going to pronounce it as the unanimous opinion of the court, that the prisoner was guilty; but after a little pause, one of the captains stood up and said, he hoped the president would not pronounce such a sentence, as being the unanimous opinion of the court, for that he was of a contrary opinion; and after he had given his reasons, another stood up, and declared himself of the same opinion; then another; after him a third: in short, every member present declared against the opinion of their chief commander, so that instead of being unanimously condemned, the man was almost unanimously acquitted.

This shews, that by the old law the chief commander of a squadron, though president of the court-martial by him appointed, could not influence the court to do whatever he pleased; but by the next novelty we are to take notice of, you have put it in the power of every chief commander of a squadron to have such a court-martial as he may influence, without being either president, or having a vote therein; and to shew this, I must observe, that by the old law and custom of the navy, when any of the king's ships had the court-martial flag out, not only all the captains of that squadron were obliged to repair on board, and had their seat and vote in that court-martial, but every post-captain of a king's ship, that happened by accident to come in sight of the court-martial flag, was obliged to repair on board, and had his seat and vote in that court-martial; a remarkable instance of which happened in the famous Trial of the lord Torrington, the beginning of king William's reign, which was a trial that no captain would have chosen to be present at, because by acquitting, he was sure of disobliging the king, and by condemning, he might probably be guilty of great injustice towards the prisoner; yet sir John Norris, who by mere accident came in sight of the Kent frigate at Sheerness, on board of which the court-martial was then sitting, and the flag for that purpose out, as soon as he saw that flag out, he was so observant of his duty, that he left his ship, repaired on board the Kent frigate, and was one of those who joined in unanimously acquitting that noble lord, contrary to their own interest, because they thereby run the risk of being dismissed the service, and never again employed in the navy, at least during that king's reign; which is another instance of its being difficult to obtain any undue influence over courts-martial, whilst they remained upon the ancient footing, though a late instance has convinced many people, that the thing is not now absolutely impossible; because, it seems, the officers of our navy, as well as all other ranks of men in the kingdom, are become a little more complaisant to their superiors than was usual in former days.

But if the obtaining of such an influence was not absolutely impossible, even under the ancient regulation, it is made much more easy by the law passed last session, which enacts, That no court-martial shall consist of more than nine, or less than five persons, and shall be composed of such

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commanders there present as are next in seniority to the officer who presides at the court-martial; for by this means it must always be beforehand known, who are to be the members of the court-martial, which will afford an opportunity for undue practices, and methods may be taken to detach intractable captains from the squadron before the court-martial be appointed. Then as to the courts-martial in Great Britain or Ireland, the Admiralty is intrusted with a most dangerous power, which is that of directing a flag-officer, or captain of any ship of war, who shall be in any port within Great Britain or Ireland, to hold courts-martial there, and to preside thereat; and that though there be but two post-captains there besides himself, he being in that case empowered, by a following clause, to call any two commanders of his majesty's vessels then in that port, under the degree of a post-captain, in order to make a sufficient number to hold a court-martial; so that the best officer in the navy may find his life at the mercy of a flag-officer or captain, and the commanders of two little sloops sent to that port, on purpose to sacrifice him to the resentment of a minister, whom he may perhaps have offended by a brave and honourable discharge of his duty to his country.

It is of the most dangerous consequence to exclude men of a high rank from presiding or sitting in a court martial, or to empower men of a low rank to preside or sit there; because the lower a man's rank is in the navy, the more he will always be exposed to the influence of an ambitious or revengeful minister; and therefore, if there were no other reason, we should be for repealing the law passed last session for regulating the navy. But there is another novelty introduced by that law, which is the Oath to be taken by the members of a court-martial. They are not only to swear, that they will duly administer justice, as was prescribed by the law of king William, which was a law passed on purpose for the Trial of the lord Torrington, already mentioned; but they are to swear, not to discover any thing that passes in debate relating to the trial: nay, even the Judge-Advocate is to swear to the same secrecy. How ridiculous is this! How contrary to the whole tenor of our constitution? An oath of secrecy is an oath taken by no court of justice in the world, except the court of inquisition, and as that court is in its own nature a court of injustice, cruelty, and oppression, we hope, it will never be made a precedent for any new regulation here. In this happy country the proceedings of all our courts of justice are open and publicly known; no judge is afraid or ashamed of the opinion he gives, or of the reasons on which he founds that opinion. Even in the most solemn trials in this House, our proceedings are open to the whole world; and we give our votes in the most public manner. This is the great security for the impartiality and honesty of all our courts of justice: were it in their power to conceal from the world what they do, or the opinions they give, bribery and corruption would soon be as frequent, and have as powerful an effect, as it has at any election in the kingdom; for it has always been, and always will be, the prayer of rogues,

'Noctem peccatis, et fraudibus objice nubem.'

And this prayer will be effectually answered by this oath of secrecy, especially in our courts-martial, which must never consist of a number less than five; because, let the proceeding or sentence be never so infamous, no particular member can be charged with it by the people, as every one of them will at least insinuate that he voted against it.

This is another reason why the act of last session ought to be repealed; and as to the new regulations thereby introduced relating to ships of war wrecked, or taken by the enemy, it was before in the power of the crown to continue the pay to those officers and seamen that had faithfully and diligently performed their duty, if not as pay, at least by way of gratuity; and we do not think, the continuance of the pay ought to be established by act of parliament, because the loss of a ship may be owing to some neglect, or act of imprudence, which it will be impossible to prove to the satisfaction of a court-martial under no manner of undue influence; therefore, this matter ought to be still left at the discretion of the crown; and we think, that when a ship is entirely lost, it ought to be left to the discretion of the crew, whether they will continue under the command of their officers or no; because, if the majority of them approve of the conduct of their officers, they will, for their own safety, compel the rest to agree to it: on the other hand, if a ship should be lost by the ill conduct of the commanding-officer, and the lives of the whole crew brought into immediate danger, it is hard, nay, it will be impossible to

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compel them to submit any longer to his command; and if by mutiny they save their lives, they will of course turn pirates, or enter into foreign service, to prevent their being punished for that mutiny. It is true, a case lately happened, where the greatest part of a crew exposed themselves to greater danger, by mutinying against their captain, than they could have done by submitting to the continuance of his command; but this will very seldom happen, and therefore I think the danger on the other side will be much greater and more frequent.

We have now shewn, that if there be any inconsistency in our laws relating to the sea-service, it proceeds from the ill-concerted laws that have been made since 1661. Several years ago some young gentlemen took it into their heads, that a new law was necessary for the amendment of our law in general, and the design became a topic of conversation in all companies; upon which a learned judge, now dead, observed, that the best way to amend our law, would be to repeal all the laws that had been made for that purpose within the last 100 years. We have the same way of thinking with respect to all the laws relating to the sea-service passed since 1661, which convinces me that we ought to be extremely cautious of making any new law for regulating that service. By the well-concerted law passed at that time, and the custom of the navy established thereupon, our navy has been ever since so well governed, that we have successfully carried on four or five naval wars, and fought many a glorious sea-engagement; therefore no new law is necessary, unless it be, a law for repealing all the laws relating to the sea-service passed since 1661.

But now, with regard to the Bill at present under our consideration, which has been so much and so often corrected and amended, that I may call what we have now before us the third edition, and what is surprizing, this third edition seems to me to be the worst of the three; for some of the best clauses that were in the first are now left out, particularly that relating to store-ships and transports employed in the government's service, the captains and crews of which were by the first edition of this Bill made liable to the martial law, while they continued in that service. This was really a new and an useful regulation; and the first war you engage in, you will find it absolutely necessary to agree to some such regulation; for by the want of such a one, the best-concerted naval expedition may be disappointed. But as some people are fond of popularity, and will court it at any rate, this clause was made a sacrifice to that view.

Thus the Bill has now made its appearance before us without any such clause to recommend it, nor has it, indeed, any one new clause to recommend it, but a great many clauses that ought to induce us to reject it; for most of the objections we have made against our late laws, are rendered stronger by new improvements upon the respective clauses in this Bill, and all the clauses in former laws, which we have objected to, are re-enacted by this. We shall not repeat the objections, but take notice of some of the improvements made by this Bill. Last year our naval law-givers, were, it seems, of opinion, that no court-martial ought to consist of above nine members, but this year they have altered their opinion, and increased the number to thirteen; and they have added a clause for preventing its being in the power of the admiralty or officer impowered to hold courts-martial, to direct or ascertain the particular number of persons of which any court-martial shall consist. We confess, we do not well understand the meaning of those two clauses; for though they do not expressly abrogate the old law, which obliges every captain who comes in sight of the flag to go on board and take his place in the court, yet they abrogate it in effect; because if there be already 13 there, the chance-comer cannot take his place, unless one of the others be obliged to retire. Suppose, then, that some of the 13 are his juniors, and that upon his taking his place the junior of them must retire: if this be the case, does not every one see, that increasing the number to 13 makes it more easy to have a packed court-martial, whose proceedings cannot be controuled by chance-comers, than if the highest number had been continued at nine? Because, in the former case seven chance-comers must arrive, and all senior to the seven youngest that are there, before they can controul the proceedings of the court; whereas, in the latter case, five senior captains, arriving by chance, would do the business.

Courts-martial are dangerous weapons in the hands of a wicked minister, but become much more dangerous, when they are put under such regulations as may



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enable him to pack them to his purpose. We, in this House, cannot approve of any such regulations: our ancestors have often suffered by such packed courts of judicature. Thank God! we have, by a law obtained since the Revolution, freed ourselves and posterity from that danger. No member of this House can now be tried, unless by the whole body of his peers, or at least as many of them as can attend; and as we have freed ourselves from the danger of being tried by a packed court of judicature, we shall never consent to any regulation, that may, in the least, expose any of our fellow-subjects to the same sort of danger.

Then, as to the oath to be taken by the Judges in a court-martial, it was before ridiculous, but now it is quite absurd. By the law passed last session, they were not to disclose the vote of any particular member of the court, "unless thereunto required by lawful authority;" but by the oath prescribed in the Bill now before us, they are not to disclose the vote of any member, "unless thereunto required by act of parliament." This puts it out of the power of either House of Parliament to enquire into the conduct of any member of a court-martial, unless the crown pleases to consent to an act for that purpose. Suppose a brave admiral should be condemned and shot by the sentence of a court-martial, packed for the purpose by a revengeful favourite minister; if this Bill passes, even the parliament itself could not inquire into the proceedings of that court-martial, or punish any one upon that account, while that minister continued to ingross the ear of his master. We may all remember a late instance, where a brave admiral gloriously disobeyed his orders, went a little farther than his instructions, and thereby acquired great honour to himself, and great advantage to his country. If such a Bill as this had been then passed into a law, that admiral would have been in some danger of being tried and condemned by a court-martial.

This oath is one of the most absurd that ever was invented; because it may prevent an innocent man from being able to justify himself against a prosecution at common law. We know, that the members of a court-martial may, by their proceedings, expose themselves to an action or prosecution at common law. A late court-martial in the West-Indies actually did so; and in an action brought against one of them here at home, he was cast in a large sum of money for what he did there as member of a court-martial; and a later and more famous court-martial, who certainly understood nothing of the common law, whatever they did of the naval, brought themselves into such a scrape as would have ruined them, if the learned judge they offended had not been so much of a Christian as to remember that prayer, "Lord, forgive them, for they know not what they do." In all such cases, surely, any member of the court-martial might justify himself by proving, that he opposed and voted against the illegal proceeding, upon which the action or prosecution is founded; but if this Bill should pass into a law, it will be impossible for him to bring such a proof.

This oath makes the increase of the number of which a court-martial may consist, still more dangerous; for if any job is to be done, the infamy must rest upon all the members present: and though every one of them may, and probably will, privately insinuate that he voted against it, yet no one of them dare openly assert, much less prove, that he voted against it, which will of course render every one of them less concerned about the infamy they expose themselves to: for the burden of infamy is like all other burdens, the more shoulders there are to support it, the lighter it sits upon every one; and in a little time we may have such a number of court-martial jobbers, that they will keep one another in countenance, which will make it easy for a minister to get them to do whatever he pleases.

We shall now take notice of the extraordinary improvements made by the 5th article of war, by this Bill to be established, and the restraining proviso in which this article is excepted. In the act of 1661, there is an article which says, that all spies shall be punished with death; but then that law concludes, as I have already said, with a general proviso, without any exception, that jurisdiction shall be thereby given only for such of the offences aforesaid as shall be done upon the main sea, or in vessels hovering in the main stream of great rivers, and only by persons in service and pay. Thus the jurisdiction given by that law is confined to proper places and proper persons; but the 5th article of war in this Bill says, that all spies, and all persons whatsoever, who shall be found to bring or deliver any seducing letters or messages, from any enemy or rebel, or endeavour to corrupt any officer, mariner, or



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other in the fleet, to betray his trust, being convicted thereof by the sentence of a court-martial, shall be punished with death; and this article is expressly excepted in the proviso, which confines the jurisdiction of courts-martial to offences committed upon the main sea, or in great rivers, and by persons in actual service and full pay; so that every man in the kingdom seems to be subjected to the jurisdiction of a court-martial, if he be accused of endeavouring to corrupt an officer or mariner to betray his trust, and that whether the person accused be in pay or no, and whether the offence be alleged to have been committed at sea or at land. Nay, the best lord in the kingdom may by this means be subjected to be tried and condemned to die by a court-martial; and therefore if you go into a Committee on this Bill, the opinion of the judges should be asked upon this question.

In short, it seems to be a Bill designed for extending the jurisdiction of courts-martial, not only over the whole British dominions, but to every British subject that resides in any part of the world, where the British flag can appear; for a British merchant at Lisbon, Cadiz, or elsewhere, may be kidnapped on board, and tried for endeavouring to corrupt some of the officers or sailors to betray their trust. Therefore, if there was a necessity for a new Bill relating to the sea service, this is not a proper Bill for the purpose.

For the Bill.

Sir; the gentlemen have been pleased to express great regard for the act of king Charles 2, relating to the sea-service, and for the admiral who, very probably, had a share in drawing it up: as to that admiral no one can doubt our regard for him; he certainly deserved the honours that were conferred on him, and he no way merited the reproach cast upon him by the royal commander of our fleet at that time, as was in a few hours after made manifest by the event, and by his gallant behaviour and glorious death. But as to the act itself, we have no great regard for it: so far as it goes, it is well enough; but it has many defects, and, therefore, if our fleet has been well governed, if it has acquired glory, those effects have been owing to the nature of the people, and not to the law, which is, in many respects, extremely deficient, some of which we shall point out: and, first, with regard to spies. By the law, as it stands at present, no court-martial, either at home or abroad, can try or punish a spy, let the proofs of a man's being such be never so evident, unless he be a man at that time in service and pay in the fleet, or ships of war: nay, if a man, not in service or pay, should get on board the fleet, or any of his majesty's ships of war, with a design to debauch the officers or sailors, and to persuade them to mutiny, desert, or run away with the ship, and such practices should be fully proved upon him, neither the admiral or commodore of the squadron, nor the commander of any single ship, has power to secure such a criminal: they may, indeed, turn him ashore, but they cannot legally confine him, in order to his being brought home and tried by the common law, which makes it very dangerous for our squadrons or ships of war to hover or anchor upon the coasts, or in the great rivers of any of those countries, where there are any British subjects, that are known to be disaffected to our present happy establishment.

Another great defect is this, that a man in service and pay cannot, by that law, be tried or punished by a court-martial, even of the squadron he belongs to, for any offence or crime committed on shore. This it is true, was remedied by the act of the 6th of the late king, as to crimes committed on shore in foreign parts; but even the noble lord himself has allowed it to be a defect in the act of king Charles 2, so far as relates to foreign parts not subject to the crown of Great-Britain; and, notwithstanding what has been said, it was right to extend the jurisdiction of courts-martial to crimes committed on shore by persons in actual service and pay, even in our own plantations. If by the crime so committed, any inhabitant of that plantation should be injured, to be sure, the admiral or commander would give up the criminal to be tried and punished by the civil power in that plantation; but when the crime relates only to the service, or to those only that are in the service, it was right to give the cognizance of it to a court-martial, though committed on shore. And as the men belonging to a squadron or ship of war must often be employed ashore, even here at home, as well as abroad, in several sorts of necessary service, such as fitting out the ship or squadron, taking in fresh water or provisions, and the like; if they then commit any crime, in which no man that is not employed in the service has any concern, I am of

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opinion, that such crimes should be made cognizable by a court-martial; for otherwise the men, when employed on shore about such necessary services, might not only neglect or disobey the commands of their officers with impunity, but might actually mutiny, and beat and abuse their officers, and the officers could have no remedy, but an action at law, against fellows from whom they could recover neither damages nor costs.

A third defect in the act of Charles 2, and, indeed, in all our laws relating to the sea-service, before that of last year, was, That if any admiral or commander of a squadron should die, or be called home, or otherwise removed, the person succeeding to him in the command, could not call a court martial without a new commission for that purpose; so that a whole squadron might, for a long time, remain without a power to try any criminal; the consequence of which was, a general encouragement to mutiny, and when men were accused of any crime, though perhaps falsely accused, there was a necessity for keeping them confined in irons till a new commission arrived. Of this inconvenience we had a late remarkable instance; for when admiral Vernon got leave to return home from the West Indies, sir Chaloner Ogle, who succeeded him in the command, was a whole year without a power to try or punish any criminal on board that numerous squadron, by the ship's being taken, which carried him a commission to appoint courts martial; and before advice could be had there or at home of the loss of that ship, and the ship with a new commission could arrive in the West Indies, a whole twelvemonth had elapsed, which might have been of the most dangerous consequence, if that admiral had not been a man of great discretion, and well beloved in the navy.

A fourth defect, which was never remedied till last year, was, that if twenty commanders of men of war should arrive with their ships at any one port, yet no court martial could be held for the trial of any offender or person accused; which was often found to be a great inconvenience, and sometimes was the occasion of innocent men being kept for a long time confined. But a few years since, the captain of one of our men of war happened to take offence at his lieutenant, and confined him in irons. While he was thus confined, the ship arrived at Lisbon: there were, at that time, more than five men of war at that port: the lieutenant represented his case to the other captains, and petitioned to be tried, but as none of them had a commission for calling a court martial, no trial could be had, and the ship put to sea again with the first lieutenant still in irons. When they were at sea, they happened to come in sight of an enemy's ship, and were making ready to engage, but the captain then appeared so evidently to be mad, that the officers all agreed to confine him, and to give the command of the ship to the first lieutenant. Accordingly they set him at liberty, gave him the command, and after his fighting the ship bravely, and bringing her home, it was found, that he had never been guilty of any offence, but that his confinement was entirely owing to his captain's not being in his right senses. Thus, not only a brave innocent man suffered a long confinement, but one of his majesty's ships was in danger of being lost, by the captains then at Lisbon having no power to hold a court martial; for, had they such a power, the lieutenant would have been tried and acquitted, and the captain would probably have been confined, as being, in his then condition, incapable of having any command.

A fifth defect is, that if any of his majesty's ships should be attacked by a superior force, and after a brave resistance reduced to the last extremity, yet if the captain should give orders to strike, or should yield up his ship to the enemy, he is, by the laws in being, to be punished with death, even though it should be proved, that his ship was in immediate danger of sinking. If captain Watson had not been killed in the engagement, he would not have yielded up his ship so soon as she was; but it is highly probable, that he would have been forced to yield at last; and yet if he had at last struck, in order to prevent the ship's being sunk, and his whole crew, as well as himself, drowned, he must have been tried by a court martial as soon as he returned home, and must have been condemned to die by that court martial, in pursuance of the articles of war as they are now worded: and if he had accordingly suffered, it would have been extremely cruel.

A sixth defect is, That if any of his majesty's ships should take an enemy's ship, the captain must not, before judgment in a court of admiralty, order any of the goods to be taken out of the ship, ex-

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cept those above deck, and the ship's stores, even though the ship should be so shattered as to be in the utmost danger of sinking. And a seventh defect is really such a one as seems to be a scandal to the nation; for by the 9th naval order or article of war, established by the act of king Charles 2, it is said, That if a ship taken as prize, make no resistance, none of the officers or mariners, being foreigners, shall be ill treated; which seems to give leave to treat those ill that resist. Thank God! our brave countrymen have always had too much generosity to make use of the leave hereby given them; but this is no excuse for the order itself. It is a reproach to us to have an article of war that gives leave for mal-treating an unfortunate but brave enemy; and therefore it will, by our passing this Bill, be expunged out of our law-books. Its remaining so long there has, it is true, redounded much to the glory of our brave sailors, but, I am sure, it has not redounded much to the glory of our law-givers.

Beside these defects, we must observe, that there are many frauds, abuses and cruelties, that may be committed on board his majesty's ships of war, and which cannot be punished by a court-martial, as our laws stand at present; because a court-martial can inflict no punishment that is not expressly appointed by the act of king Charles 2, or warranted by the laws and customs used at sea before that act was passed. False musters, for example, cannot now be punished by the sentence of a naval court-martial. It has been a practice too frequent, especially in the West-Indies, for captains of his majesty's ships to lend their men to masters of merchant-ships, and lie in harbour till those men returned. It has been known, that a captain of a twenty-gun ship, which should have 130 men on board, has lent out 100 at a time. The men find their account in it, because they have higher wages from the merchants, and in consideration of this, they assign their pay and provisions on board the king's ship to the captain, or some trustee for him; but during the whole time of their absence, the government is cheated, and the public service neglected; nay, we have had disputes between captains about men belonging to one of his majesty's ships, who have been pressed out of the merchant-service by the captain of another. This practice may be of the most dangerous consequence, in time of war, and yet it cannot be punished any other way than by cashiering, which is far from being an adequate punishment, because it is so seldom that any such practice can be proved.

There are likewise many sorts of cruelties which may be exercised on board his majesty's ships, and cannot be punished by the sentence of a court-martial. But lately a captain was accused of beating a man on board his ship, for a small fault, in the most cruel and merciless manner: the fact was fully proved, but no proper punishment could be inflicted. And then as to frauds, they appear in so many different shapes, that it would be tedious to give an account of all that have come to our knowledge; therefore we shall mention only two. Some years since, a captain of one of his majesty's ships had the good luck to take a very rich prize: he was not content with his own share, but he resolved to cheat one of his midshipmen out of his: with this view, about two months after the prize was taken, he falsifies the books of the ship, gets this midshipman entered as a common man, and a relation of his own, then on board, entered as a midshipman. This was fully proved, but a court-martial could give no redress, nor inflict any punishment. The other fact we shall mention, is of a rich man of war of 74 guns, which was drove ashore, in the West-Indies, by one of our squadrons there: as soon as she was aground, her crew deserted her, and our commodore sent an officer with a proper number of men, and with orders to bring her off, or if that could not be accomplished, to set her on fire: accordingly, the officer and his men landed, and some time after they landed, the ship was seen in a blaze. The officer returned to the squadron, and it was supposed, that he had done nothing but his duty: but some time after, it began to be whispered among the men, that the ship might have been easily got off, being a strong new ship, but that the officer had plundered her privately of a great deal of money and jewels, and had then set her on fire to conceal the theft he had committed. Upon this he was called before a court-martial; the fact was fully proved, but the court could pass no sentence, nor inflict any punishment; though he highly deserved death for depriving his country of such an useful and valuable prize. In these and many other cases, all the court-martial could do, was to report the facts, as fully proved, to the Board of Admiralty; and all that Board could do, was to cashier

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the officer, a punishment too mild for the crime committed. It must therefore be allowed, that in the act of 1661, there are a great many defects; and, indeed, we ought to be no way surprised at that act's being in so many respects deficient, when we consider with what precipitancy it was passed; for, by the Journals, we find that it was but a few days under consideration. It is obvious, that a new law is necessary for the right government of his majesty's navy and ships of war. It is what has been long wanted, and loudly called for, by all those of my acquaintance that have any concern with the navy.

April 10. A clause was offered for providing, That in case of any capital crime, to be tried in Great Britain or in the narrow seas, the number of the court-martial should not be less than thirteen, of which nine should be for the sentence of death; and in all other parts, where five might constitute a court-martial, four of the five should concur in the sentence of death. But upon the question being put, it was rejected without a division. The most remarkable thing that happened upon the report of the Bill, was the leaving out that article of war for subjecting the half-pay officers of the navy to the same discipline as if actually upon full-pay. This occasioned a strong debate, and Mr. Pelham beginning to apprehend some disagreeable consequences from the spirit without doors against the Bill, yielded to the opposition, and agreed to the leaving out that article; upon which the Bill was read a third time, and sent up to the Lords.

*Debate in the Lords on the Mutiny Bill* *] March 15. On the motion that the Mutiny Bill be read a second time, the following debate took place:

Lord *Bathurst:*

My lords; the Bill now read to us, has always been deemed a Bill of the utmost importance, and has been often opposed by some of the greatest men in the kingdom, and the best judges of our constitution; but as there are several new clauses in this Bill, which never were before in any Bill of the same nature, and as several new crimes are created, or at least the punishments rendered more severe, the Bill now requires more than ever to be maturely considered, and to be considered in a full House. For this reason, when the Bill was ordered to be read a second time, I moved for the House to be summoned, and the Judges to attend, that every lord might have an opportunity to offer his objections against the Bill in general, or against those clauses that are now, or have been lately introduced; and that, if any question in law should arise, we might have the assistance of the judges for determining it in the most legal and just manner.

For my own part, my lords, as I have fought many battles against such Bills as this, under as expert leaders as, I believe, ever appeared in this House, without any success, I shall not now engage to fight the same ground over again; therefore I shall make no objection against the Bill in general, but as to some of the new clauses I have objections to make, which at present I think unanswerable: however, as those objections cannot properly be made untill we go into a committee on the Bill, I shall not oppose the motion for committing it; but when that is agreed to, I shall renew my motions for the House to be summoned, and the judges to attend.

The Earl of *Westmoreland:*

My lords; though I have very little reason to expect, that any objection I can make to the whole of this Bill, will have what I may think its due weight, yet I cannot sit here and see such a dangerous Bill pass into a law, without declaring, that I think such a numerous army in time of peace altogether unnecessary, and, that, were it necesary, the troops might be kept in good order by the civil magistrate, if a proper law were made for that purpose. I am therefore against the whole of the Bill, and consequently shall give myself very little trouble about any of the particular clauses, new or old; for if a numerous army is to be kept up, and the officers and soldiers of that army stript of all the privileges they ought to enjoy as Englishmen, by subjecting them to military law, and not only to all the clauses of this Bill, but to all articles of war which the crown may hereafter prescribe, I think it of no consequence, whether the punishments to be inflicted by that law be more or less severe.

What makes the people of this country more happy and secure than they are in any other, is, that valuable privilege of being tried by their peers, and by judges who understand the laws of their country, who are bound to be of counsel with the prisoner

* From the London Magazine.

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at the bar, and who are as independent as it is possible for men to be made, consistent with the nature of mankind, and the support of government: but by this Bill, and indeed every former Bill of the same kind, the officers and soldiers of our army are entirely deprived of this valuable privilege. If any of them be accused of a military crime, they are to be tried by a law which admits of no jury, nor of any challenge, and by judges who understand nothing of the laws of their country, and who are so far from being of counsel, if they were capable, with the prisoner at the bar, that they are often such as have their daily bread depending upon the good will of the prosecutor. In short, our officers and soldiers are by this Bill made as much subject to arbitrary power as any man is in Morocco, Turkey, or any of the despotic monarchies in the east. A certain form must, it is true, be here observed in putting any of them to death; but when an innocent man is condemned to die, the form and ceremony of a trial is, I think, an aggravation of his misfortune; for I should chuse to die by the order and bow-string of a bashaw, rather than by the sentence of a court-martial, from whom I should expect neither justice nor mercy.

Therefore, my lords, if you once strip our officers and soldiers of this, which I think the chief privilege of an Englishman, I shall give myself very little trouble about the other clauses of your Bill; for if you empower a court-martial to inflict the punishment of death, or a punishment more dreadful than death, upon any crime whatsoever, it seems to me of no signification, how many crimes you subject to the trial of such a court, or what punishment you empower it to inflict; because the danger does not lie in the multitude of crimes to be tried, or the severity of the punishments to be inflicted, by that court, upon the guilty, but in the little security an innocent man has for his life, who is to be tried by such a court upon a false accusation, spirited up, perhaps, by some one who can command the court to condemn.

This, my lords, is the danger, and whoever is made liable to this danger, I can look on in no other light than as a slave to the person who has the power of appointing, and too often, I am afraid, the power of directing the court-martial. By the very first clause of this Bill, therefore, every officer as well as soldier of our army is made an absolute slave to the general appointed by the crown; and could we have any reason to be surprised, if those, who have been thus by law deprived of all the privileges of Englishmen, should join in any project for enslaving those who had first enslaved them? We may talk, my lords, of our army being commanded by gentlemen of family and fortune, and that while it is so commanded our liberties can be in no danger; but as this depends entirely upon the absolute unlimited will of the sovereign, who can dismiss and commission whatever officers he pleases, and at any time he pleases, it is such a precarious dependence as, I am sure, no wise people will ever trust to for the preservation of their liberties. We know by experience how safely, and how soon an army may be modelled for any purpose. In 1659, general Monk commanded an army in Scotland, which had assisted in dethroning and murdering Charles 1, driving his whole family into exile, and overturning our monarchical establishment; yet in a few months the general so modelled and managed this army, that he made it his instrument in restoring Charles 2, and establishing that form of government, which most of them were by principle averse to; for I must observe, that most of the soldiers as well as officers of that army, were men who had really some principle, which is, I am afraid, what cannot be said of the soldiers, though, I hope, it is otherwise with regard to the officers of our present army.

But, my lords, I have no occasion to talk of modelling our army, when I consider the doctrine lately established, that the officers as well as soldiers of our army are listed for life, if the crown-general thinks fit to deny giving the former leave to resign, or the latter to be discharged. As to the soldiers, I know, that this has for a long time been the doctrine established in our army, or at least that no soldier, after being once regularly listed, can ever leave the service without a discharge from the commanding officer of the regiment; but as to the officers, it was before generally thought, that they might resign their commissions, and leave the service, whenever they pleased, without asking or waiting for leave from the crown, or the general appointed by the crown; and I shall grant, that such leave has seldom if ever been refused, because if one officer resigns his commission, there is always another ready and glad to take it up. But since our contests upon occasion of this Bill, it has been insisted, and now seems to be allow-

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ed, that after a gentleman has accepted of a commission from the crown, he cannot resign that commission without the leave of the crown; and that if, without such leave, he throws up his commission, and leaves the service, he may be taken up, tried by a court-martial, and shot as a deserter from his majesty's service.

This, I say, my lords, is the doctrine which now seems to be established, and if it be not altered by act of parliament, no future prince can have occasion for modelling our army to any purpose whatever; because, if an officer cannot resign, let his fortune and family be never so considerable, he must obey the orders of the commander in chief, or be shot for disobedience by the sentence of a court-martial; for a court-martial properly chosen will deem every order lawful that can be issued by their chief commander, and from them there is no appeal; for which reason, I think, the contest about inserting or not inserting the word 'lawful' in this part of the Bill, was a contest of very little moment. It does, indeed, give the court-martial a pretence for not condemning a disobedient officer, but it is a pretence which no court-martial will ever, I fear, make use of, when it is insinuated to them, that the prince or general expects they should condemn; for officers are not generally much conversant in any laws but those of war, and according to the laws of war, every command is lawful that seems to be for the good of the service.

It is therefore, I think, evident, my lords, that if you subject officers as well as soldiers to be tried by a court-martial, and empower that court-martial to inflict the punishment of death upon any crime whatsoever, you expose our constitution to great danger, which, surely, we ought never to do, unless compelled by some unavoidable necessity, for which we have not, in my opinion, at present the least pretence; for from any late behaviour of our army there is not so much as a shadow of reason for saying, that a Mutiny Bill is now more requisite for keeping our troops in order than in the year 1717; and at that time it was the opinion of many of the best judges, that no such Bill was necessary: for this opinion they then not only gave, but have left upon record, such reasons, as cannot now be answered, no more than they were at that time.*

* See Vol. 7, p. 538.

The Earl of *Bath*:

My lords: I am sorry I cannot, with the noble lord that spoke last, oppose the whole of this Bill, for I think the continuance of martial law and a standing army in time of peace, though but from year to year, of the most dangerous consequence to our constitution; and when I consider the expence, I wish a less number of troops could be sufficient. But if we keep up any standing army, some sort of military law is, I think, necessary for preserving order and discipline in that army; and I am afraid, our circumstances will not as yet admit of a less number than is now proposed; for though we are in no danger from the disaffected while we keep such a number of regular troops, yet it must be allowed, that disaffection is still too general among the people, and experience has shewn, that like a naughty boy at school, they return to their tricks as soon as the rod is removed from before their eyes.

This, I shall grant, my lords, is a most melancholy situation, for we are got, I think, into a sort of magic circle: disaffection makes a standing army necessary, a standing army increases our debts and taxes, those debts and taxes ruin our trade, the ruin of our trade increases disaffection, and this makes a more numerous standing army necessary. But disaffection, my lords, is not the only reason for our being obliged to keep up a standing army: our laws cannot now be executed without the military: a smuggler cannot be taken or conveyed to prison without the assistance of soldiers: a little riot cannot be quelled without their assistance. But the other day, when this Bill was read a first time, I was surprized to see a magistrate of the great city of London come in a fright to parliament, to demand the aid of the military for dispersing a few riotous seamen: that city, which was formerly so jealous of their liberties, that they would not allow a regular party of soldiers to enter their gates, and with great difficulty could be prevailed on to allow the party for relieving the Tower to pass through: that city, I say, my lords, now sends for a party of soldiers to quell a petty riot; and a party was accordingly sent, but the officer being a man of sense, soon saw there was no danger, and therefore he presently returned.

How our people have become so effeminate, my lords, I cannot comprehend; but

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nothing can shew the necessity of keeping up a standing army more than what happened during the late rebellion; a parcel of rascally highlanders marched from the northermost parts of Scotland through millions of people, to within 100 miles of London, without meeting with any resistance from the people; and might, for what I know, have marched to London, and overturned our government, had we had no regular troops to prevent it; which shews either an extreme degree of effeminacy among the people, or a very general disregard for the safety of the government; and let it be which it will, it is a manifest proof, that a standing army is absolutely necessary for the preservation of our present happy establishment. I am sorry it is so: I am sorry I cannot avoid confessing it; for to a free state a standing army is like drams to a ruined constitution: they preserve the appearance of health for a while; but they prey upon the entrails, and bring certain death at last.

All we can therefore do in our present situation, is to take care never to keep up a greater number of troops than is absolutely necessary for our preservation, and to regulate those troops so as to make them as little dangerous to our constitution as possible. What sort of peace it is that we have lately got, I do not know; but I hope, my lords, it is a good and a lasting one. At land, it is true, our success in the war was not very good, which was not owing to any want of bravery in our troops, or of conduct in our generals, especially the chief, but to a panic that seized some of our allies, and an inability, or something worse, in others, who never performed what they had promised. However, a peace was become as necessary for our enemies, as it was for us, or any of our allies; for by the diligence of our sea commanders, their trade was quite ruined, and their people reduced to a starving condition; therefore I have reason to hope, that we obtained good terms of peace for our allies as well as ourselves; and the uncertain state of the present royal line of France gives me ground to hope, that it will be lasting, especially as the court have since shewn their sincerity, by banishing the young Pretender in the manner they did. From hence I conceive hopes, that we may soon find ourselves in a condition to reduce our annual expence, by lessening the number of our regular troops; and I am sure, we should do so as soon and as much as possible. We are now loaded with a debt of 80 millions, the greatest part of which is at 4 per cent. interest; so that we have at least 3 millions a year to pay for interest, and consequently must raise yearly above 7 millions, if we resolve to make no further encroachment upon the Sinking Fund. The present public expence is, therefore, what we cannot bear. We must confine it to the produce of the land and malt tax, otherwise we must apply the whole, or a great part of the Sinking Fund, to the current service; and however easy the public creditors may now be about the payment of their principal, they would soon grow jealous of our ever being able to pay it, should they see the Sinking Fund applied yearly to the current service, which of course would ruin the public credit, and render it impossible for the government to borrow any money upon the most pressing emergency.

The reduction of our public expence is, therefore, what we should resolve on as soon as possible, though we cannot think of it at present; but the regulating of our army, so as to make it as little dangerous to our liberties as possible, is what we may now resolve on, and we ought to do it by proper amendments to this Bill. While we keep up a standing army, some sort of military law is necessary; but there is no necessity for making the punishments to be inflicted by that law, so severe as they are made by the Bill now before us. The punishment to be inflicted upon desertion, for example, is by much too severe: his late majesty thought, that desertion in time of peace never deserved to be punished with death: he had great humanity and compassion, joined with all that courage and intrepidity so natural to his family. This made him look upon desertion, in time of peace, as a fraud rather than a crime; for which reason he would but very seldom consent to its being punished with death; and therefore the punishment of whipping was introduced instead of it. Mutiny or sedition, again, is what in time of peace can very seldom deserve death, or stand in need of being capitally punished by martial law, because if it rises to any height it becomes treason, or by reading the proclamation against riots it may be made felony without benefit of clergy, and consequently may be capitally punished by the civil magistrate. Then as to corresponding with, or giving intelligence to his majesty's enemies, every one knows it is treason, and liable to be

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punished by the civil magistrate, more severely than it can be by a court-martial. And as to the other crimes made capital by this Bill, it would be cruelty, I think, to punish any one of them with death, especially in time of peace, when such strict discipline is not required, nor can ever be necessary; particularly that of a soldier sleeping upon his post: this, I shall grant, is, in time of war, and when the enemy may be within reach, a very high crime, and may be of the most dangerous consequence, therefore it may then deserve to be punished with death; but in time of peace it never can: suppose a poor fellow who stands sentry at the farther end of Rosamond's Pond, should accidentally be found napping upon his post, would you put him to death for so trivial an offence?

I know, my lords, it is left in the power of a court-martial to inflict a milder punishment; but this is one of the most dangerous parts of the martial law; for nothing can contribute more to the establishment of slavery than severe punishments with a power of mitigation, especially when the crimes are such as cannot be certainly guarded against, or such as may be easily fixed by false witnesses upon a man perfectly innocent: of the first kind I reckon that of a man sleeping upon his post, or using violence against a superior officer who executes his office in a brutal or insulting manner; and of the last kind are those of exciting mutiny, or not using his utmost endeavours to suppress the same, or not giving information thereof without delay.

As all these, my lords, are crimes which neither caution nor innocence can certainly prevent a man's being guilty or convicted of, a power to inflict upon them the punishment of death, or a milder punishment, must create a most slavish dependance in the army upon the general appointed by the crown, who must always have it very much in his power to direct the court-martial, especially as it seems to be now generally allowed, that the crown, or the commander in chief, can order a revision of the sentence as often as he pleases; which revision is really, in my opinion, a sort of second or third trial for the same crime, with this aggravating circumstance, that the prisoner is not allowed to be present at this second or third trial, though a revision must generally be with a design to have a severer punishment inflicted than that which was adjudged by the first sentence, or perhaps to condemn a man, who by the first sentence was acquitted.

Thus, my lords, you must see, that by multiplying military crimes, and inflicting upon each of them the punishment of death, or a milder punishment if the court-martial thinks fit, you will reduce your army to a slavish dependance upon the commander in chief; and by the last clause of this Bill you are to involve all our half-pay officers in the same slavery. A clause of the same nature, was, it is true, inserted in the Mutiny Bill of last year, and passed both Houses unobserved; but now it has been taken notice of, I hope it will be rectified; for it is absolutely inconsistent with the preamble, because it makes our army more numerous than what is mentioned in the preamble, which says, that the whole number of the standing army to be kept up, shall consist of 18,857 effective men, including 1815 invalids; and I can see no good reason for subjecting our half-pay officers to the penalties and punishments of this Bill; but it is easy to suggest several bad reasons, which at present I shall forbear to explain.

This Bill will therefore, my lords, stand in need of several amendments in the committee; but the chief is that which relates to the power we are to give courts-martial to inflict punishments. As every such power is a departure from the common law, and an encroachment upon our constitution, we should extend it no farther than is absolutely necessary; and experience has shewn, that the good order and discipline of an army may be preserved, without empowering a court-martial to inflict any punishment that might affect life or limb; nay, even without any court-martial at all, or any exercise of military law within the kingdom. In king William's reign we were without any Mutiny Bill, or military law, from Dec. 20, 1691, to March 10, 1692-3; and yet we had then an army of near 70,000 men on foot, and were not only engaged in a war abroad, but were in a real, not an imaginary danger of being invaded at home; for it was in May, 1692, that we prevented the formidable invasion intended by France, by that glorious victory over their fleet at La Hogue. Again, in the same reign, peace being concluded at Ryswick, we were without any Mutiny Bill, or military law, from April 10, 1698, to Feb. 20, 1701-2, though during that whole time a body of regular troops were kept on foot



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within the kingdom, and I never heard of any want of order or discipline in the army during either of those periods, at least not such a want as was occasioned by our not having an act against mutiny and desertion.

During the war in queen Anne's time, we had, indeed, a mutiny act regularly passed every year, and thereby courts-martial were constantly empowered to inflict the punishment of death upon some heinous crimes; but, my lords, no sooner was peace restored by the treaty of Utrecht, than the mutiny act then subsisting was suffered to expire, as it did on March 24, 1712-13; so that we were without any courts-martial, or military law, till July 25 following. However, as a small body of regular troops was to be kept on foot, the parliament which met April 9, 1713, considered, that some sort of military law was necessary for keeping those troops in order; and for this purpose a Bill was brought in, and passed into a law, which was the first of the kind ever passed in this kingdom, during a time of profound peace both abroad and at home, and which, I think, ought to be a model for us at all times when we are in the same circumstances; for, I hope, the Whigs, as a certain party amongst us are called, will never think it necessary to arm the crown with more power than was thought necessary by that Tory parliament.

By this law, my lords, which, I say, ought now to be our model, it was enacted, that any officer or soldier, that should be guilty of any of the crimes mentioned in the act, should suffer such punishment as a court-martial should adjudge such offence to deserve, 'not extending to life or limb.' By this law, therefore, my lords, the power of courts-martial was so much circumscribed, that they could not inflict the punishment of death or demembration upon any crime whatsoever, no not even upon mutiny or sedition; nor could they so much as try a man for holding correspondence with her majesty's enemies; for which very good reasons may still be given, because if mutiny or sedition deserved death, that is to say, if any man was killed in quelling it, the seditious were all guilty of murder, and as such might be tried and duly punished by the common law; and as to holding correspondence with an enemy, it was, and still is treason at common law, by which alone it ought to be tried and punished.

Thus the law continued, my lords, with very little variation and without any bad consequence, till after the accession of his late majesty; and as the public tranquillity seems now to be as fully established as it was at that time, as there seems at this time to be as little reason for encroaching upon our constitution as there ever was at any, I think, we ought not to extend the power of courts-martial farther than it was by the law then passed; therefore I shall conclude with moving for an instruction to the committee, "To restrain courts-martial from inflicting any punishment extending to life or limb."

The Duke of *Newcastle*:

My lords; of the two noble lords who spoke last, one is, I find, against our having any army or any martial law, and the other is for an army, but for such a sort of martial law as would render that army of very little service. Now I differ from both these noble lords: notwithstanding the peace, which his majesty has so wisely, and so happily restored to Europe, as well as to his own kingdoms, I am of opinion, that if we are resolved to be free at home and independent abroad, we must continue to keep up a standing army not less numerous than what is now proposed; and we must continue to enact yearly, for, I hope, we shall never for any longer time, such regulations as may be sufficient and effectual for preserving good order and strict discipline in that army.

My lords, as to the treaty of peace lately concluded, we have heard many objections made against it, both within doors and without, but upon a proper enquiry, I believe, it will appear to be as good a treaty as the circumstances of Europe could then admit of, and that, to the glory of this nation, it must have been much worse, if our national strength had not been exerted during the war in the most wise and vigorous manner: I believe, it will upon enquiry farther appear, that the peace was concluded as soon as possible, and could not have been concluded sooner, without ruining that system of the affairs of Europe, upon which its liberties depend; and, therefore, I shall be ready to agree to such an enquiry as soon as it shall be proposed.

Yet nevertheless, my lords, I cannot be of opinion, that we ought to reduce our army below its present standard, or that we ought now to form our Mutiny Bill upon the model of that which was passed after concluding the peace at Utrecht, in

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1713; and I hope to give such reasons for my opinion, as shall convince a great majority of this House to be of the same. For this purpose I shall consider our circumstances as they now stand affected both with regard to foreign and domestic affairs; and first with regard to foreign. We have now, it is true, a peace with the French, and they may for the present seem sincere in their intention to observe every article of that peace; but we all know, they are never to be trusted, except when they are not in a condition to behave otherwise. This makes a material difference between our circumstances at this time, and those we were in after concluding the peace of Utrecht. At that time the French had by a long unsuccessful war been brought to the very brink of ruin, and their country so drained both of men and money, that it was impossible for them to recover in a great number of years. They were, besides, under the government of a king, who could, by the course of nature, live but a few years, and the next successor was but a mere infant; with this additional misfortune, that the internal peace of their country depended upon the life of that infant; for had he died in his infancy, or without children, that kingdom would certainly have been involved in a civil war; and the confederacy, which had brought them so near to their ruin, were engaged to set a king upon their throne, whom few if any Frenchmen would have voluntarily chosen.

Are the French now, my lords, in any such condition? In the late war, indeed, they suffered a little in their commerce and marine, but at land they were every where successful, and their sufferings at sea were such as may be repaired in a very few years of peace. As to their royal line, I shall grant, it is not very well guarded at present; but they have two very good lives to depend on, and a great probability of having soon several more; for the young dauphiness by age may be cured of that imbecility which hitherto has been the cause of her miscarriage; and if both king and dauphin should die without heirs male, considering the present state of Europe, and the power of the Spanish branch, it is not very probable that it would occasion any intestine war in France; nor does the House of Orleans seem inclined to take advantage of that speculative claim which was procured them by the treaty of Utrecht.

Then, my lords, with regard to our allies, how different are their circumstances now, from what they were when the treaty of Utrecht was concluded? Our chief ally in a most confused condition, and stript of almost their whole barrier: the House of Austria dispossessed of several rich provinces, and such seeds of discord thrown among the princes of the empire as will probably, for a century at least, prevent their uniting in any common cause against the House of Bourbon. And as to the king of Sardinia, though he joined us in the last war, and during the whole course of it acted a most honourable part, yet his own interest may induce him to join the House of Bourbon in the next, as it did in 1734.

These, my lords, are our present circumstances with regard to foreign affairs, and in these circumstances can we trust to the sincerity of the French, or to their observance of treaties, when it is so well known, that they observe them no longer than they find themselves in a condition to evade or break them? Then, my lords, as to our circumstances with regard to domestic affairs, we may talk of our militia and of the feats they would perform against an invading enemy, but the rapid progress which the late Rebellion made without any resistance from the people, is a recent and manifest proof, that the people are not to be trusted to, even for their own defence, against an invading enemy; for if 4 or 5,000 highlanders made such a progress, what might not 4 or 5,000 veteran regular troops do, should they be landed in any part of the island, if we had not a sufficient body of regular troops to oppose them soon after their landing? I will not say, that such a number could conquer the island, without any assistance from our own people; but their progress would be marked in a different manner from the late progress of the highlanders; for terror, dismay, and confusion would be their harbingers wherever they came, and conflagrations, massacres, rapes, and pillaging, their constant companions: and would not the people then have reason to exclaim against those ministers, that had consented to a great reduction of our army?

My lords, I know it may be said, that while we are superior at sea, our navy will always be sufficient for protecting us against any such invasion; but this I cannot agree to, because I look upon such a dependance as more uncertain than the winds; for besides the uncertainty of the winds, which may prevent our ships sail-

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ing to the proper station, to prevent the invasion, it is well known, that an embarkation of so small a number of troops may be so secretly and so suddenly made, that they may be landed in some part of the island, before we have had the least notice of their being embarked, and may do a vast deal of mischief before we can collect and march an army to oppose them, or send our ships round to prevent their reimbarking; for which reason I shall always be for having such an army on foot, even in time of peace, as to send immediately a sufficient number of regular troops for defeating such an invasion; for this, I think, is the only method for being secure against any such invasion being attempted.

But, my lords, it is not keeping troops in continual pay that makes them regular: they must be kept to a strict discipline in time of peace as well as war, otherwise they will soon become nothing better than common militia. For this purpose it is absolutely necessary to keep them always subject to military law, and to articles of war; and as those articles must often be altered as circumstances change, as a very sudden alteration becomes sometimes necessary, the crown must be vested with a power to alter them in matters of small moment, as often as it shall see cause. The articles are now much the same with what they have been for many years past; and when we pass any law for inflicting punishments upon military crimes, we must empower the court-martial to inflict the severest punishment that such a crime can in its most aggravating circumstances deserve; because, unless they are so empowered, they cannot inflict such a punishment upon a crime, which, from some favourable circumstances, ought to be more mildly punished; it is in the power of the crown to pardon the criminal, which his present majesty will certainly do as often as any such criminal may deserve mercy, for he has as much courage and intrepidity as any of his ancestors, and as much humanity as is consistent with public justice.

My lords, this, I believe, will be granted, by every one that hears me, and after granting this, no one can find fault with the punishments appointed by this Bill; no one can suppose, that any of the crimes therein mentioned will ever be too severely punished. Even that of a centinel's sleeping upon his post may, in some cases, deserve to be punished with death, in time of peace as well as war. In the case mentioned by the noble lord it may not, perhaps, deserve death, and in such a case, I believe, no such punishment would ever be inflicted; but there is a centry-post very near to the place he mentioned, which is of the utmost importance, a post very near, perhaps in the next room, to where our sovereign may be at the very time: would not such a centinel's sleeping upon such a post be a crime of as heinous a nature as a soldier can be guilty of? Yet such a crime could not be punished with death, if not made capital by the military law, even though our sovereign should lose his life by the centry's having been guilty of it.

My lords, in all such cases therefore, it is absolutely necessary to appoint by law the severest punishment that the crime can, in its most aggravating circumstances, deserve, and to have it in the power of the court-martial to inflict a milder punishment when the case will admit of it. But such a mitigating power, it is said, is of dangerous consequence to liberty. My lords, I am as jealous of liberty as any man can be in reason, but some people pretend to be so jealous of liberty, that they will not admit even of those regulations that are necessary for the support of government; and this I think of much more dangerous consequence to liberty, because it must introduce anarchy, of which the certain consequence has always been found to be tyranny. This extravagant jealousy of liberty has created an opposition to many excellent regulations; and from the same cause proceeds the present opposition to what is called a revision of the sentence of a court-martial. This power the crown has always been vested with, and the exertion of this power has in past times often been found necessary, as it will probably be in times to come. I am no lawyer, but, according to any notion I have of the forms of a trial at common law, a revision is in no respect like a new trial, nor can ever be of any prejudice to the person that has been tried, because it is never ordered but when the court-martial have either mistaken the crime or the punishment.

I am therefore of opinion, my lords, that there is no reasonable objection can be made against any part of this Bill, and as to our taking the Mutiny Bill passed after the peace of Utrecht, as a model for any future Bill of the same nature, the misfortune that soon after happened, should be a caution to us never to think of building again according to that model; for the obedience of the army was so ill se-

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cured by that Bill, that I am persuaded, it was the chief cause of that Rebellion being projected, which broke out soon after his late majesty's accession; and much greater numbers of the army would probably have joined in that Rebellion, if care had not been taken to pass a proper Mutiny Bill before the rebels could come to any head. For this reason, I hope, the Bill now under our consideration will pass without any material alteration, and therefore I must be against the instruction proposed.

Lord *Bathurst:*

My lords; I believe my noble friend, who proposed the instruction, had overlooked a short clause in the Bill now before us, by which it is provided, that no person in Great Britain or Ireland shall, by the articles of war, be adjudged to suffer any punishment, extending to life or limb, except for such crimes as are expressed to be so punishable by this act. This makes the power we give his majesty to form and establish articles of war of much less dangerous consequence than it was before; and this clause became necessary from a practice lately introduced, of making some crimes capital by the articles of war, which had not been declared to be so by the mutiny act then in force; but I was surprised to hear the noble duke say, that the articles of war are now much the same with what they they have been for many years past. What his grace meant by many years past I do not know, but this I know, that the articles of war were formerly, I believe in 1717, but about 46, whereas they are now 113; so that they must now be very different from what they were in that year, and must likewise be much more perplexing to those who sit as judges in courts-martial, and who are not much acquainted with the science of law; from whence we may suppose, that their sentence will often be dictated by the Judge-Advocate or his deputy, that is to say, by the prosecutor, which is a circumstance not very favourable for the prisoner.

As to what the noble duke was pleased to say, about the necessity of our keeping up such a number of troops, and of our having such severe military laws, I must observe, that our keeping 7 or 8,000 men, more or less, in pay, in time of peace, cannot surely have any effect upon the counsels of the French court: no, my lords, it is not what we do in time of peace, but what we can do in time of war, that has an effect upon their counsels; and the greater expence we put ourselves to in time of peace, the less we shall be able to do in time of war; therefore if French sincerity is not to be depended on, it is an argument for diminishing rather than for increasing the standing army we keep up in time of peace. And as to their invading us with 4 or 5,000 men, with no other view but to plunder, burn or destroy, they will certainly never do so in time of peace: even in time of war, we may from experience presume, that they will not do so, as they never did so during the late three wars, notwithstanding the certainty they always had of being joined by great numbers of our own people.

Then, my lords, as to the necessity of our having such severe military laws in time of peace, I hope, we shall always be able to preserve good order and strict discipline among our soldiers, rather by their having a true sense of their honour and duty, than by their being under a fear of severe punishment. The former is the motive of brave men and free men, the latter the motive by which none can be influenced but cowards and slaves. I was therefore sorry to hear such a reflection cast upon our army in 1715, as to suppose, that the Rebellion which then broke out, was fomented or encouraged by any of them, or that any one of them was prevented from joining in that Rebellion by the fear of the Mutiny Bill passed that summer. Upon men who had so often and so bravely faced death in Flanders, as most of our officers and soldiers then had, we cannot suppose, that fear had any effect: and if it were possible to suppose any such thing, could the fear of being shot by the sentence of a court-martial for desertion, have operated more strongly than the fear of being hanged for treason by the sentence of a court of oyer and terminer?

The Duke of *Bedford:*

My lords; the noble lord who spoke last, seems to mistake the instruction moved for; because the design of it is not to prevent any punishment being inflicted by the articles of war, extending to life or limb, for crimes not expressed to be so punishable by this Bill, but to prevent any such punishments being inflicted upon any crime, even by the Bill itself; and as this would render our army not only useless against an invading enemy, but

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dangerous to the subject, I am against it. Even with all the power which the commanders of our army now have over the inferior officers and soldiers, and with all the severe punishments which a court-martial can inflict, it is difficult to hold them to their duty, and to make them be at the pains to learn all those military exercises, which are necessary for forming a regular well disciplined army, and without which, let the men be never so brave, they are apt to fall into confusion in time of action, especially when it becomes necessary, as it often does, to alter the disposition. It is this that makes regular troops so much superior to militia, and this perfection no troops can arrive at, unless they have been so long accustomed to an exact discipline, that every part of the military exercise becomes, as it were, natural to them.

For this reason, my lords, I am of opinion, that if you should put it out of the power of courts-martial to inflict any punishment extending to life or limb, our regular troops would soon become no better than our common militia; and experience has more than once shewn, what little dependence we can have upon our militia. Some lords may perhaps suppose, that whipping, or some such military punishment, might be effectual for holding the soldiers to their duty; but if the danger of death were removed, or made so distant as the forms of common law require, the inflicting of any such punishment might probably produce a mutiny, and that mutiny might increase so as to become an open rebellion of the army, against their commanding officers, and the laws of their country.

I must therefore conclude, my lords, that if we should agree to the instruction proposed, it would render our army useless against an invading enemy; and I am sure it would render our army of the most dangerous consequence to the quiet and welfare of the rest of his majesty's subjects; for a farmer or tradesman would have a very bad time of it, should he have no other way of getting any punishment inflicted upon a soldier that had assaulted him, his wife, or daughter, or that had carried off some part of his goods, than by bringing his action or indictment at common law. How grievous an army without strict discipline may be to the people, we may learn from the Petition presented by the other House to king Charles 1, in 1628, against billeting of soldiers; for, among other grievances, they complain, that the people in many places durst not repair to church, lest in the mean time the soldiers should rifle their houses: that the officers of justice in the performance of their duties had been resisted and endangered: that farmers, to secure themselves and their injured wives and children from the insolence of the soldiers, had been forced to give up their wonted dwellings: that tradesmen and artificers had been forced to leave their trades, and employ their time in preserving themselves and their families from cruelty; and that robberies, assaults, batteries, burglaries, rapes, rapines, murders, barbarous cruelties, and other abominable vices and outrages were complained of from all parts where soldiers had been quartered.

My lords, these were the effects of an army without discipline; and these, I am persuaded, would again be the effects, should the instruction moved for be agreed to. Noble lords may talk as they please of the honour and virtue of soldiers: with regard to the officers of our present army, I shall be as ready as any man to extol their honour and virtue; but with regard to the common soldiers, it would be very imprudent to trust to their honour, or to the sense they have of their duty: we all know how our regiments are raised, and how they are recruited; and we must confess, that the common men of the army are not taken from among the best sort of people. Besides, that boldness of spirit, which makes a man fit for being a soldier, and which generally leads him into the army, is very apt to lead him into vices and outrages, if not restrained by a better education than they have been usually blessed with: therefore, severe punishments and speedy executions are absolutely necessary for preserving good order, as well as strict discipline, among the common men of our army.

We know the good effect of the regulations which the army has been subject to for many years: under these regulations our soldiers have lived among the people, for above 30 years, without any complaint, much less such grievous complaints as were brought against them in Charles 1st's reign; but, my lords, we do not know what might be the effect of the new regulation proposed. If any complaint had been made of the cruelty or severity of courts-martial: if it could be said, that they have generally punished to the utmost extent of their power, there might be some reason for restraining it; but on the contrary, we know that they never inflict-

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ed the severest punishment, unless when the crime had been often repeated, or attended with such circumstances as made it of the most atrocious kind. There is, therefore no reason for introducing the restraint upon the power of the courts-martial intended by this motion, but so many against it, that, I hope the noble lord, when he considers it more seriously, will withdraw his motion, or at least not insist upon having any question put upon it.

The Earl of *Oxford:*

My lords; as I never have, so, I hope, I never shall fight under any leaders, nor allow myself to be directed with respect to my behaviour in this House, by any thing but my own conviction; and when I think the liberties of my country in danger, I shall always do the best I can, even though I should stand single and alone, which, I hope, I never shall, in defence of so glorious a cause. Though I do not trouble you often, yet I cannot sit silent when I see a Bill of such a nature passing: a Bill, which was originally inconsistent with our constitution; a Bill, which grows every day the more dangerous the longer it is continued, the oftener it is revived; and a Bill, which, in its present dress, appears hideous to the liberties of a free people. It may perhaps be said, that the Bill has been much softened since it first made its appearance in the other House; but this is so far from being an argument for its passing without any notice in this, that it should excite in us a jealousy of the designs of those who ventured to bring such a Bill into either House of Parliament, and should make us more attentive to what may be the consequences of thus continuing, from year to year, such a dangerous and anti-constitutional law.

My lords, I know it will be said, that by continuing the Bill from year to year, we have it in our power to put an end to it at the end of every year, by refusing to continue it for the next; but this I must positively deny. The arguments now made use of for continuing it, will all be of equal weight at the end of every succeeding year, with what they are or can be at the end of the present; and after the army have been properly disciplined, and long accustomed to a blind obedience, they would look upon every member of either House of Parliament, who was suspected of being against continuing this law: I say, they would look upon every such member as an enemy to their sovereign, and every such member would find all the avenues to the House barred against him by files of grenadiers. That this is no vain imagination, experience itself has shewn. It is but an hundred years and a few months since an English army did so: an army raised and maintained by the House of Commons, for vindicating the liberties of the people, and preserving our constitution, by orders from their general, took possession of the doors of the House of Commons, and excluded from that House every member he suspected: yet the members who were thus by the general of the army allowed to take their seats, in number not an hundred, pretended still to be the representative body of the Commons of England; and in less than two months after, imbrued their hands in the blood of their sovereign, and abolished the House of Lords, as an useless and dangerous assembly.

All this, my lords, an army did under the pretence of liberty; what then, may not an army do under the pretence of loyalty, especially when they have a pretence so well founded in reason, as that would be of every man's being an enemy to our present happy establishment, who refused to concur in continuing the law against mutiny and desertion? For if a standing army be now absolutely necessary for preserving our present happy establishment, and if such a law be now absolutely necessary for preserving discipline in that army, is it possible to suggest a conjuncture when no such necessity can exist?

My lords, if I had always before been a friend to this Bill, I should now be against it, for no other reason but because of the late attempts to establish a blind sort of obedience in the officers and soldiers of the army to the orders of their commanders; and I do not think those attempts effectually defeated by any amendments that have been made to the Bill: I do not think they can be effectually defeated, whilst a court-martial has power to inflict a punishment extending to life or limb upon any man in the army; nor can I see any necessity for investing courts-martial with such a power in any time of profound tranquillity, or in any place not liable to be surprised by an enemy. There are several lesser punishments now customary in the army, which, I am sure, would be sufficient for preserving good order among the soldiers, and for compelling them to learn all those military

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exercises, which are necessary for forming a regular well disciplined army: nay, we know that for such purposes no other punishments are now inflicted even by courts-martial; and those punishments would, in my opinion, be sufficient for preventing desertion; for I am of the same opinion with some other lords who have spoke before me in this debate: I cannot think, that in time of peace desertion deserves, or ought to be punished with death.

Then as to mutiny, my lords, and the other crimes made capital by this Bill, why may they not be made triable and punishable by the civil magistrate in the ordinary course of justice? The mutiny must be quelled, the mutineers must be in custody, before they can be tried or punished by a court-martial: after the mutiny is quelled, and the mutineers in custody, is there any danger in keeping them a few days in close prison, till they can be tried by due course of law, which they may very soon be by our ordinary courts of justice, or by his majesty's issuing a commission of oyer and terminer for the purpose? This could never encourage a mutiny amongst soldiers, or tempt them to rebel against the laws of their country: on the contrary, it would tend to prevent mutinies, because it would prevent the soldiers being oppressed or ill used by their officers; for if any little mutiny should be occasioned by such means, the cause of the mutiny would appear upon the trial, and the judges would, in such case, recommend the condemned criminals to mercy, and the officers, who had been the cause of their crime, to justice. Could such a recommendation be expected from a court-martial? Would not a court of brother officers endeavour to stifle, or perhaps refuse to hear any evidence a soldier could give, of his being ill used by his officer? I have as good an opinion of the officers of our army as of any set of men whatever; but from the nature of mankind we must expect, that men will be a little partial in favour of those of the same rank or denomination with themselves; whereas no reason can be assigned, why a judge and jury should be partial either to the officer or soldier; and I am sure, they would be much less under the influence of any general of our army.

Besides, my lords, if soldiers were made subject to be tried by the civil magistrate, even for military crimes, it would preserve among them that respect and reverence which is due to the constitution and civil laws of the kingdom: from them they would expect protection as well as punishment: by them they would often find themselves protected: by them they would never find themselves punished but when they deserved it. This would prevent its being possible to induce them to join in the support of any ambitious project for overturning the constitution of their country; and as no soldier could be put to death, no more than any other subject, but by due course of law, they could not be compelled. On the other hand, whilst they are by such a Bill as this, I may say out-lawed: whilst they are deprived of all the valuable privileges of other subjects; and whilst their lives are made to depend upon a chief commander, and a court-martial under his direction, what regard can they have for the laws or the constitution of their country? What should induce them to expose themselves to certain death, by refusing to obey the most unjust, the most unlawful orders of their commander in chief? I say, certain death, my lords; for no general will ever think of such a project till he has made sure of being supported by a great majority of his army; and in that case a court-martial of his chusing will certainly condemn to be shot any man who dares dispute his orders, even supposing it were to turn this august assembly out of doors, as has been once done already by an army, and their associates in the other House.

My lords; the fate of this assembly at that time, I shall grant, contributed greatly to our honour, because it shewed it to be the opinion of most of us, that "when vice prevails and wickedness bears sway, the post of honour is a private station;" but did it contribute to shew either prudence or foresight in those who concurred in many of the previous measures that were necessary for bringing on that fatal catastrophe? I am persuaded, every lord that hears me has a due regard to his future fame and character; and if ever our constitution should be overturned by an army kept up and governed by such a law as this, I hope, every one will consider, what light his character will appear in to the eyes of posterity. If this be rightly considered, I am sure, it will not be easy to convince a majority of this House, that such a Bill as this is necessary for preserving good order or discipline in the army, especially as we have reiterated experience of the contrary, as was fully shewn by the noble mover.

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And as to the Petition, my lords, or rather Remonstrance, presented by the other House to king Charles 1, the noble duke who spoke last was a little unlucky in applying that to the present case; for if the soldiers were guilty of the outrages therein complained of, it was not owing to want of military laws or courts-martial, or to a want of power in those courts-martial to inflict what punishments they thought fit. By our constitution, our kings have always had by their prerogative, a power, in time of war, to establish military laws, called articles of war, and to appoint courts-martial for carrying those laws into execution, which power by our constitution ceased as soon as the war was over: that is to say, as soon as the army returned from abroad, if it was a foreign war; and as soon as our courts of justice were again open and able to distribute justice to all his majesty's subjects, in the case of an intestine war.

This, I say, my lords, was our ancient constitution; but as ministers are always advising their sovereign to extend every branch of the prerogative beyond its due bounds, so they advised them to extend this to every riot or little disturbance that happened in the kingdom, and to call it a time of war; so that long before king Charles 1, our kings assumed a power to raise forces, and to issue commissions for the exercise of military law, whenever they pleased; and that unfortunate king took care to extend this prerogative as far as any of his predecessors had ever done; therefore we cannot suppose, that in 1628, the troops he had then on foot were not subject to articles of war, and liable to be punished even with death by a court-martial: nay, by the Petition of Right passed in the same parliament, we are informed, that soldiers were not only liable to be tried and punished by a court-martial, but that they pretended, and the sycophant or cowardly magistrates of those days admitted, that they could not be tried or punished by any civil judicature, even for crimes committed against those who were not in, nor had any thing to do with the army.

Therefore, my lords, if any such outrages were at that time committed by soldiers with impunity, it was not owing to a want of power in courts-martial to punish, but to their negligence or wickedness; and who can say, that commanding officers may not hereafter become as negligent or wicked as they were at that time? for if this should ever happen, a farmer or tradesman would have no way of getting any punishment inflicted upon a soldier who had robbed or assaulted him, but by an action or prosecution at common law, which the noble duke has confessed would render his case extremely hard, and would indeed, with respect to such farmer or tradesman, be the same as if we had no military law of any kind.

Thus, my lords, if any argument can be drawn from the petition or remonstrance mentioned by the noble duke, it must be an argument against keeping up any army at all in time of peace, because we from thence find, that we cannot depend either upon military laws or courts-martial, for preventing their being guilty of abominable vices and outrages: and indeed, it adds greatly to the honour of the present officers of our army, that we have not now many complaints of the same kind; for as idleness is the mother of expence as well as vice, I am surprized, that many of our soldiers, who have but 6*d* a day for their support, do not rob or steal for supplying those extravagancies which their idleness is apt to lead them into; but as death neither is nor can be inflicted by martial law for such crimes, it cannot be said, that the power of inflicting capital punishments for military crimes is necessary for preserving good order in the army, or for preventing their being guilty of crimes, which may be capitally punished by common law, and can be so punished by no other.

For this reason, my lords, if the soldiers have lived among the people for so many years without any grievous complaints, it is not owing to the power courts-martial have of inflicting the punishment of death for military crimes; but to the diligence of the officers in delivering soldiers up to the justice of the common law for heinous crimes, and punishing them with rigour when guilty of any little offence or irregularity, for which the person injured did not think it worth his while to prosecute at common law. And as I think, this diligence will be rather increased than diminished by restraining courts-martial from inflicting any punishment affecting life or limb, since we must have a standing army and a military law, I shall be for the instructions moved for.

Lord Chancellor *Hardwicke*:

My lords; the Bill now before us has, I shall admit, been often opposed



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in this House, but never with less reason, I think, than at this present time. We have so lately had a convincing proof of the little dependance we can have upon the people for the defence either of our religion or liberties, that I am surprised to hear any doubt made of its being necessary to keep up a standing army even in time of peace. When the late rebellion first broke out, I believe most men were convinced, that if those rebels had succeeded in their attempt, popery as well as slavery would have been the certain consequence; and yet what a faint resistance did the people make in any part of the kingdom? so faint, that had we not been so lucky as to get a number of regular troops from abroad, time enough to oppose their approach, they might have got possession of our capital without any opposition, except from the few troops we had here at London; so that the fate of the kingdom would have depended upon a battle fought within a few miles of this city. Whilst the people, therefore, remain in their present unarmed and undisciplined condition, let the consequence be what it will, we must keep up a standing force; and no one ever heard of an army being long kept up in any country in the world, without military laws and courts-martial for holding the officers and soldiers to their duty; nor was it ever known, I believe, that in any other country such courts had not a power to inflict the punishment of death upon those who deserved it.

My lords, as to the times that have been mentioned, when we kept up in this country an army without military laws, or courts-martial, or without those courts having a power to inflict capital punishments, it did not proceed from choice but necessity; and the consequences at every time were so fatal, that they ought to be a warning to us, never to submit again to the same necessity, if it can be possibly avoided: nay, I am apt to believe, and hope to give good reasons for my belief, that upon every one of those occasions there was treason in the hearts of some of those, who were the chief causes of reducing us to that necessity. From our Journals we may learn, that in the session 1691-2, a Mutiny Bill was brought in as usual, which passed both Houses; but some amendments having been made to it in this House, which were disagreed to by the other, the Bill was thereby lost; and as it is well known what complexion the then House of Commons was of, it is highly probable, that this disagreement was by some amongst them fomented in concert with the court of France, who were then meditating an invasion in favour of the late king James, which in May following was disappointed by the glorious victory we obtained over their fleet at La Hogue; and as this put an end to the influence as well as hopes of the Jacobites for that year at least, a Mutiny Bill was next session passed as usual.

From that time, my lords, the Bill was passed annually during the war, but as the peace concluded at Ryswick did not answer the expectations of the people, as indeed, I believe no peace ever can, a spirit of Jacobitism revived in the nation, and produced a violent opposition to every measure projected by the court. It was this that forced king William to disband so many of his troops after the conclusion of that peace, that he and our allies the Dutch found it necessary soon after to agree to the partition treaty, which gave the French faction in Spain, an opportunity to prevail with the then king of Spain to make that will, by which a younger branch of the House of Bourbon was called to the succession, and actually got peaceable possession of the throne of that monarchy. Whereas, if king William had been enabled to keep up a sufficient standing army in this kingdom, and had been provided with a proper law for preserving order and discipline in that army, no such treaty nor will would probably have ever been made, or if made, we should have been in a condition to have prevented any of the House of Bourbon getting possession of the crown of Spain; for if we had been in a condition to send 10 or 15,000 men to Spain, directly upon the death of their king Charles 2, for the support of the Austrian or true Spanish party in that kingdom, they would not have submitted, as they did, to the French, nor would the latter have ever got possession of the Spanish West-Indies; therefore we may justly conclude, that the House of Bourbon's getting possession of the Spanish monarchy was owing to the opposition made to king William's measures after the peace of Ryswick; and this opposition, with respect to some at least concerned in it, was certainly fomented by Jacobites, who thought, that by the House of Bourbon's getting possession of that monarchy, it would be enabled to bring about what they called a restoration in England.

Then as to what happened after con-

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cluding the peace of Utrecht, I believe, no one doubts, that the great reduction of our army made at that time, and the ineffectual Mutiny Bill then passed, were both owing to a design not very favourable to the Protestant Succession. That design was, it is true, in a great measure disappointed by the death of the then queen, but the pensions paid to the chiefs of the disaffected clans, and the Rebellion that afterwards broke out, shewed plainly what the design was; for though the Rebellion did not immediately break out, yet the design of it was certainly laid before the queen's death; and as the principles of most of the officers and soldiers of the army were known to be directly contrary to that design, it was resolved to disband the greatest part of it, and to render the remaining part as useless as possible. This was well enough known at the time of his late majesty's happy accession to the throne; and an opportunity would then have been taken to have augmented our army, and to have passed a proper law for rendering it useful; but as the keeping up of a standing army in time of peace, however necessary, has always been unpopular in this kingdom, and has always been made a ground of clamour by the discontented as well as disaffected, it was resolved not to furnish either with such a handle against the new government, unless the designs of the latter should become so manifest, as to deprive the former of any pretence for joining in the popular outcry, which accordingly happened before his late majesty had been a year upon the throne, and which, we may from the last Rebellion be convinced, will happen, as often as this nation is deprived of a sufficient military force.

I therefore think, my lords, that no former precedent can furnish us with the least pretence, either for diminishing the present number of our troops, or for not establishing such regulations as are necessary for preserving military discipline among our troops; and I am really surprized at its being suggested, that death is a punishment too severe for desertion, as it is the punishment which by our old laws was inflicted upon that crime. Those laws are indeed now become obsolete, or rather the modern method of inlisting soldiers has rendered it impossible to carry them into execution; for lord chief justice Holt long since declared, that soldiers, as now listed, could not be tried or punished by those laws; therefore it is now become absolutely necessary to have a new law for that purpose; and by that law, surely, the same punishment should be inflicted, that such a long experience has shewn to be necessary.

My lords, I am equally surprized at the objection made against what is called a revision of the sentence of a court-martial. Can we suppose, that the judges of a court-martial are infallible? Can we suppose them less liable to err in their judgment than a jury, or than any of our courts at common law? Do not we know, that when a jury upon any trial at common law, brings in a verdict which the judge thinks unjust or improper, he may order them out again to re-consider their verdict? And do not we know, that juries have often, upon such occasions, altered their verdict? So likewise, the judgment of any court at common law may be altered at any time within the same term. Why, then, should we not allow the judges of a court-martial to alter their sentence or opinion, especially when the crown, or the commander in chief, thinks that they have given an unjust or improper sentence? for a revision is never ordered in any other case; but as the gentlemen of the army are not much acquainted with law proceedings of any kind, we must presume, that such a case will often happen hereafter, as it has done heretofore; and in every such case, the crown, or crown general ought to have a power to order them to revise, that is, to re-consider the sentence they have given; so that a revision is really nothing more than a judge's sending out a jury to re-consider their verdict; and in proceedings according to martial law, it is more proper than in those according to common law, because in the former the whole evidence is taken down in writing, which is never done in any trial at common law.

The Earl of *Bath*:

My lords; it has been a practice of late years too common to represent every man as a Jacobite who opposed the measures of the court, and to pretend that every struggle, for the preservation of our ancient constitution, was founded upon some secret design in favour of the Pretender. This may be of service to the ministers for the time being, and may contribute to the success of some of their temporary expedients; but I am sure, it is of very great prejudice to the illustrious family now upon our throne, because it



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may propagate a belief among the people, that the Jacobites are now become the only friends to liberty, and that nothing but a restoration can preserve us from being governed by a corrupt parliament, and a mercenary standing army. If the noble and learned lord who spoke last, had been aware of this consequence; I am persuaded, he would not have fished so deep for treasonable designs, in the opposition made to the court in king William's time, or in the moderation of the ministers, with respect to the Mutiny Bill passed after the peace of Utrecht.

But, my lords, whatever were the designs at either of those times, it is very little to our present purpose to enquire. Our only enquiry ought to be, was the army at those times kept in good order, was there a proper military discipline preserved in it? for if this was the case, it is plain, that both these ends may be answered without any military laws, or, at least, without such a severe law as this now before us; and that this was the case, not only the histories of those times, but the behaviour of our troops, as soon as they were afterwards led to action, must clearly evince. Were our troops here at home more disorderly in 1692, than they had been for two or three years before, or were afterwards at any time during the war? Did such of them, as were sent abroad, shew less courage, or less military discipline? There were, it is true, in that year some complaints about pressing, but such complaints had been made every year before, and were never so much as attempted to be removed by a clause in any Mutiny Bill, because the crime is punishable, and properly cognizable by our courts at common law; so that if any officer or soldier was disorderly in this respect, it did not proceed from the want of a Mutiny Bill, but from a neglect of the government in putting the laws in execution. And as to the behaviour of our troops abroad, the battle of Steenkirk, fought that summer, will be a lasting testimony, that the courage and discipline of British troops do not depend upon their being subjected to severe military laws.

Then, my lords, as to the behaviour of our troops here at home, from the peace at Ryswick to the beginning of the next war, there was not the least complaint of their being any more disorderly than they had been before; and though they were, during that whole time, without any military law, yet such of them as were sent to Flanders under the duke of Marlborough, and such as were sent to Spain under the duke of Ormond, in the very first year of the war, gave convincing proofs, that military discipline had been preserved in our army, notwithstanding its having been so long without any military law.

I therefore think, my lords, it is evident from experience, that order and discipline may be kept up in the army without any Mutiny Bill at all; but this is not what is now contended for: we are willing to allow such a Mutiny Bill as was passed after the treaty of Utrecht; and it is very remarkable, that those troops that had for some time been governed by that Mutiny Bill, behaved better against the rebels at that time, than our troops did at the beginning of the last rebellion, though they had been for 30 years under the government of a Mutiny Bill, equally severe with this now under consideration.

As to the consequences that ensued after the treaty of Ryswick, it would be easy to shew, that they were not owing to the reduction we made in our army; and as to the two last rebellions, their fate is a proof, that a numerous standing army, and severe mutiny laws, are not necessary for securing our present happy establishment against any rebellion set on foot by the disaffected: I believe and hope, that the fate of the two last rebellions will likewise be a security against our being plagued with any such for the future; but supposing it were to be granted, that a rebellion of the disaffected would always be the certain consequence of our reducing our army below its present standard, or discontinuing any of our present military regulations, are we to destroy our constitution, and establish a slavish military government, for the sake of preventing a few enthusiasts from exposing themselves to be killed in battle, or hanged at Tyburn? This will, probably, be always their fate, whilst the rebellion is confined to such men only; but if by our military establishment our constitution should be brought into any real danger, it might give a different turn to their fate; because the people in general, and perhaps a great part of the army, might be provoked to adopt even their cause, in order to free themselves from their present danger, and to be revenged on those, who under the mask of liberty had introduced slavery.

This, my lords, is what will always be carefully attended to by every man who has a greater regard for the illustrious

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family now upon our throne, than he has for any emoluments he enjoys or expects under the administration; and to such a man nothing can be more terrible than that of detaching entirely the military from the civil part of our constitution, and establishing, in the former, a blind obedience to the orders of their chief commander. For this purpose nothing can be more effectual than that called a revision of the sentence of a court-martial, which is in so many respects different from that of a judge's sending a jury out again, that I was surprised to hear any comparison made between them. When a judge sends a jury out again, it is done immediately, whilst the looks and behaviour of the witnesses examined upon the trial are fresh in every one of their memories, and before any one can have an opportunity to converse with or influence any of them. Whereas a commander in chief, by this power of revision, may order them to revise their sentence three months after its having been passed, when the behaviour of the witnesses must be entirely forgot by most of them, and when they have been properly spoke to, and persuaded to alter their sentence. Besides these, there is another material difference, which is, that a judge who sends a jury out again, and thereby shews himself displeased with their verdict, has no power or compulsive influence over any one man of the jury; but a commander in chief, who orders a court-martial to revise their sentence, and thereby shews himself displeased with it, has an almost irresistible influence over every member of the court-martial, so that the order for a revision is and often proves to be an order for altering the sentence, and making it more severe. I say, my lords, more severe; for this must in general always be the design of a revision, because when the first sentence is too severe, there is no necessity for a revision, as the commander in chief may remit the whole, or any part of the punishment he pleases.

My lords; when we consider this, we may easily see the danger every gentleman of the army must be exposed to, if he ventures to disobey, or refuses to execute the orders of the chief commander of the army, let those orders be never so illegal. We know the danger which the people were exposed to before the Revolution, by the judges having their commissions during pleasure, though the crown never had assumed a power to make them revise any sentence or judgment they had given; and from thence we may judge of the danger every officer must be exposed to who disobliges his chief commander, and afterwards comes to be tried for his life by judges, whose commissions, and perhaps their daily bread, depends upon the pleasure of that commander; and this danger is greatly increased by the power that commander has to appoint such officers as he thinks will be most pliable to his will, to sit upon any court-martial.

Then, my lords, with regard to desertion, I was surprised to hear the noble lord talk of that crime's being punished with death by our old laws; for in those days we never had any soldiers retained to serve the king but in time of war, and as soon as the war was over they were disbanded, so that the case is far from being parallel to the case now before us; and besides, we know that even by our old laws, desertion was never punished with death, till the reign of Henry 7, and the first year of that reign, when the precariousness of that king's title to the crown made severe punishments necessary; but neither in that reign, nor in any future reign, till that of Charles 1, was it customary to retain soldiers till a war was at the point of breaking out, or to keep them up after the war was at an end; therefore none of our old laws can be quoted as a precedent for making desertion a capital crime in time of peace; and as it now seems to be admitted, that even officers of all ranks may be punished as deserters, if they throw up their commissions without leave, we ought to be the more cautious of inflicting such a severe punishment upon desertion.

In short, my lords, from the whole of this debate the most certain conclusion seems to be, that an army without such a military law as this now before us, will be dangerous to the subject, and with such a military law it will be of the most dangerous consequence to our constitution. This is a melancholy alternative, but as the present unarmed, undisciplined condition of the people, is made the pretence for keeping up a standing army, I shall rather be for making it dangerous to the people than to the constitution; because if the people once come to feel the mischiefs of keeping up a standing army, it may induce them to be at the expence of furnishing themselves with arms, and at the pains to make themselves masters of military discipline; and then, I hope, we should no longer have any advocates in

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either House of Parliament for keeping up a numerous standing army within this island in time of peace; nor would such an army be so dangerous, because a well-armed, well-disciplined people could defend their liberties against a numerous army, whereas an unarmed, undisciplined people may be enslaved by a handful of regular troops under the absolute direction of an ambitious tyrannical general.

The Duke of *Argyle*:

My lords; I shall not enter into the question, whether good order and discipline was at any former period preserved in our army, without a Mutiny Bill, or without arming courts-martial with a power to inflict punishments extending to life or limb, because, I believe, it was and might have been so to this day, if courts-martial had never in time of peace been established, or never armed with such a power. There is therefore a very great difference between our circumstances now, and what they were in 1717. At that time, perhaps, it was not necessary to pass any such Bill as this into a law; but now, after our soldiers have been for above thirty years accustomed to such a law, I am afraid, it will be found impossible to keep them in any tolerable sort of order, or to preserve military discipline among them, without it. It is the same in this case as in many others: we have now punishments inflicted by statute upon several civil crimes, which I think too severe, and consequently, if I had been present when the statute was first enacted, I should have been against inflicting such a severe punishment upon such a trivial crime; but now that the punishment has been so long established, and the people accustomed to it, I should be against repealing the statute, or lessening the punishment, because, I am sure, it would be a temptation towards committing the crime.

For the same reason, my lords, I am against discontinuing or mollifying those military regulations, which our soldiers have now been accustomed to for above thirty years. I shall indeed grant, that death is in time of peace too severe a punishment for desertion, if it were to be always inflicted for the very first offence; but we know that it is not; and I am afraid, the crime would now become too frequent, if a court-martial were not armed with a power to inflict that punishment when the crime has been often repeated, or attended with aggravating circumstances. Besides, there are two cases, in which even this crime highly deserves death, and which cannot be provided for by a general law: one is, when a regiment or battalion happens to be ordered upon any foreign service, such as that of going to America, Gibraltar or Port-Mahon; or such as that of going abroad for the assistance of any of our allies upon the continent of Europe; and the other is, when a war, foreign or domestic, is every day expected to break out; which event may be so sudden, that half the army might desert before a new law could be passed for preventing it: and in all such cases, an officer who receives the pay of his country in time of peace, and resigns his commission upon the first approach of danger or fatigue, deserves to be shot, more than any common soldier, who deserts upon any such occasion.

Noble lords may terrify themselves with the danger, to which our constitution may be exposed by our keeping up a standing army in time of peace, and keeping it under such regulations as are necessary for preserving good order and discipline; but while our army is commanded by gentlemen of the best families and fortunes in the kingdom, I can apprehend no such danger, nor does experience furnish us with any ground for such an apprehension. On the contrary, the behaviour of our army at the time of the Revolution may convince us, that an army so commanded, will never allow themselves to be made the instruments for introducing slavery, and establishing arbitrary power; and as to that army which overturned our constitution in the reign of Charles I, we are to consider, that it was composed of enthusiasts in religion, and commanded by men of the lowest rank among the people, or by gentlemen who were enthusiasts in politics as well as religion; so that no comparison can be made between that army and the army now contended for, nor any argument drawn from the behaviour of the one for dreading a like behaviour in the other.

But supposing our constitution to be in danger from the army now kept up, and the military regulations now proposed: nay, supposing, that our constitution would by these means be certainly overturned; I should in that case follow the maxim, which in such a case every wise man would observe: of two evils I should chuse the least; for as I am fully convinced, that without a regular well disciplined

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army there can be no security for our present happy establishment, if slavery must be our choice, I should be for slavery under our present royal family, rather than for slavery under the Stuart family; and if this were to be our melancholy case, which, I hope, it never will, I cannot think, there is any Protestant, or any man who detests French insolence and tyranny, that would hesitate a moment in his choice.

The Bill was then ordered to be committed on the 18th instant.

*Debate in the Lords on a Clause in the Mutiny Bill subjecting Half-Pay Officers to Martial Law**.] March 18. Their lordships went into a Committee on this Bill.

Lord *Bathurst* rose and said:

My lords; I have upon many occasions as well as this found, that lawyers can render the plainest question doubtful, and that they often endeavour to put a meaning upon a law, which is directly contrary to the express words of the law.† By the Bill now before us it is declared, that the number of forces for the ensuing year shall be 18,857 effective men, including 1,815 invalids, and that it is requisite for retaining such forces in their duty, that an exact discipline be observed; therefore it is enacted, that if any person being mustered, or in pay as an officer, or who is or shall be listed, or in pay as a soldier, shall be guilty of any of the crimes mentioned, he shall be subject to be tried and punished as in the Bill directed.

Now, my lords, would any man but a lawyer suppose, that a whole body of men who are no part of the number of forces mentioned in the Bill, nor mustered, nor in pay, are by these words subjected to the penalties and punishments of this Bill; and yet we find, there are some lawyers of this opinion, and that half-pay officers would by the preamble and first enacting clause be subjected to military law, even though the clause now read were left out of the Bill; because, say they, those officers that have half-pay, are in pay as officers, and consequently are included under the words "or in pay as an officer."

But thank God! my lords, we have now, and have always had many able and great lawyers of a different opinion; for according to the common acceptation of the words, 'in pay,' they are always supposed to mean full pay; and the half pay given to reduced officers is not given as pay, but as a reward for past services, and as a retaining fee, that they may be ready to serve their country again in the same or some higher capacity when it has use for them. I cannot really form an idea, how any one can suppose half-pay officers to be in military service; they are never mustered; they are not under the command of any one, nor have they any one under their command: if employed, I believe, they must have a new commission; and as they are not included in the 18,857 men, mentioned in the preamble of the Bill, it is impossible to suppose, that the words, 'for retaining such forces in their duty,' can have any relation to them.

* From the London Magazine.

† "When the Mutiny Bill was sent to the Lords, it there met with a fresh opposition; and it was unaccountably proposed, to restrain all courts-martial from inflicting any punishment affecting life or limb. But this question was carried in the negative, by a majority of 88 against 15. The judges were then consulted, 'Whether the half-pay officers, not being included in the number of 18,857 effective men, mentioned in the preamble of the Bill, could be deemed subject to it, or to any of the pains and punishments mentioned therein, were it not for the last clause contained in the Bill then before the House.' Upon this question, the judges were divided in opinion. The Lord Chancellor was clearly for the affirmative. Some lords thought, that if the last clause should pass, some provision should be made to compel the government to do justice to the officers upon half-pay, by preferring them according to the date of their commissions, and the rank they had in the army. They likewise affected great fears, lest the clause, if it should pass, should strengthen the hand of the ministry, by giving them power over all the half-pay officers in the kingdom, many of whom were men of great fortunes and families, which might have a dreadful influence at the general election. The Clause was carried by a majority of 72 against 15. After this, an attempt was made to get a clause inserted in the Bill, to exempt any peer of the realm from being tried by a court-martial. But this was likewise defeated; and the Bill at last passed. Those debates made very serious impressions upon the minds of many people, both without and within doors. A great jealousy in the army began to take root, and many plans were published, particularly one by Mr. Thornton, a member of the House, and the same who had distinguished himself so remarkably during the Rebellion, for rendering the militia a kind of counterpoise to the standing army." Tindal.

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Therefore, I must conclude, that if it were not for the words mentioned in the last Clause of the Bill, no half-pay officer, while he remained on half-pay, would be subject to any of the penalties or punishments of the Bill, or could be tried for any crime by a court martial; and, I think, they ought not to be made subject, because it would be a great hardship upon them, because it is no way necessary for the security of the government, and because it would be of the most dangerous consequence to the constitution.

My lords, as to the hardship it would be upon the officers, let us consider, that even a captain upon half-pay, has but a crown a day, which certainly is not sufficient to support him like a gentleman, much less to support his character as a captain, should he be obliged to live the whole year in London, or in any place where provisions are dear. For this reason, we know, that all such half-pay officers as have no estate of their own, retire to some distant and cheap province, or pass a great part of their time with their relations in the country; and in such retirement they may depend upon resting secure till they get a new commission, or a new war calls them again to arms, in either of which cases they are sure of being restored to full pay. But if this Clause should pass as it now stands, no such officer could depend upon resting secure for a moment in any retirement, and consequently could lay down no scheme of living within the compass of his half-pay; because the secretary at war, or the commander in chief, might, whenever he pleased, order him to some other place, or perhaps to the West-Indies, and that without restoring him to full pay, or making him any other allowance. Perhaps it may be said, that we cannot suppose that any such orders will ever be given; but in passing or making laws I shall always suppose, that whatever may be will be; and whether it be or not, it is a hardship upon a man to be made liable to the chance of its being; for no man can pretend to foretel what a whimsical or revengeful general will do, or what he may be put upon doing by some tale-bearing favourite; and I shall by and by give a good reason for supposing, that such things will be often done. By this Clause the secretary at war, or commander in chief, has a greater command over the officers on half-pay, than he has over those in full-pay; because he cannot send an officer on full pay away from his regiment, and if a detachment is to be sent from any regiment, the general's orders must be sent to the commanding officer of the regiment, who sends the detachment out, and the officer whose turn it is goes upon the command. But the secretary at war, or commander in chief, may send any half-pay officer he pleases from one corner of the kingdom to another, from that to a third, and so keep him always in motion, because they belong to no corps, nor have any turn of duty or fatigue; which is a power that ought not to be lodged in any man, especially since the service no way requires it, as I shall next endeavour to shew.

My lords; from the preamble of this very Bill, it is evident, that our ministers themselves think 18,857 effective men sufficient for the security of our government in time of peace, because, had they thought otherwise, they would have desired a greater number, which we all know they did not; and as they have since the peace lessened every troop and company in the service, by discharging a number of private men from each, it is plain, that they have now more officers in full pay than were necessary in time of war for an army of 18,857 men, and consequently many more than are necessary for such an army in time of peace. What occasion, then, can they have for the service of our half-pay officers in time of peace? And if they can have no occasion for their service, I mean in their military capacity, what necessity is there for subjecting them to the penalties and punishments of this Bill.

But it may be said, my lords, that a sudden invasion or insurrection may happen, and then the government may have occasion for the service of the half-pay officers, before any new Bill can be passed for obliging them to serve, or for obliging them to observe an exact discipline. Experience, my lords, has shewn, that in such cases there is no occasion for any law to force the half-pay officers into the service, because they have upon every such occasion appeared as ready to serve, as the government was to desire their service; and it must always be so, with respect to all such half-pay officers whose service is worth asking; for as the government has a power to strike them off of the half-pay, if they refuse to serve when called on, no man will ever refuse, unless he be so old or decrepit as not to be able to serve, or a coward, or disaf-

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fected. As to the old and decrepit, it would be cruel to desire them to serve; and, I am sure, it would be very imprudent to give any command in our armies to a coward or a disaffected officer.

Thus, my lords, there can never be any occasion for a law to force half-pay officers into the service; and after they have again entered the service on account of an invasion or insurrection, every one who knows any thing of our constitution must know, that we have then no occasion for a law to compel the observance of exact discipline, because his majesty may then, by his prerogative, establish articles of war, and appoint courts-martial, with as full powers as any act of parliament can, or at least ought ever to give. And when he has occasion to send an army abroad, and takes the half-pay officers into his service for that purpose, his prerogative empowers him to do the same with respect to the troops so sent upon foreign service.

Having thus shewn, that there is not the least necessity for a law, either to force half-pay officers into the service, or to oblige them to observe exact discipline, when they are taken again into service, I must observe, my lords, that if this Clause be passed into a law, and continued from year to year as it now stands, which it probably will if it now passes, it may in case of a long peace be made to bear extremely hard upon many half-pay officers. I shall readily admit, that all officers upon half-pay ought to be preferred according to their rank in the army; and that no younger officer, or officer of inferior rank in full pay ought to be preferred, as long as there is an older officer or an officer of superior rank upon half-pay, and fit for service. This rule ought to be observed in time of peace, both for the sake of justice, and for the sake of freeing the public from an unnecessary expence; but we all know, that it never was observed, and, I believe, never will; for as half-pay officers cannot spare to attend the levees of great men here in London, and much less to purchase any of our venal boroughs, in order to get a seat in the other House, they are generally forgot, and after two or three disappointments they generally give over troubling themselves with soliciting for any new preferment. By this means, when the last war broke out, there were several officers upon half-pay, in the same rank in which they were when the peace was concluded at Utrecht in 1713; and this may be the case again, when the next war breaks out; but surely it would be very hard to oblige a half-pay officer to submit to be commanded by a stripling of superior rank, who perhaps was not born when he got his commission; yet this he must do, if this Clause be passed and continued, or be shot for disobedience.

For this reason, my lords, if you pass this Clause as it now stands, I hope you will add a clause for compelling our ministers to do justice to the officers upon half-pay, by preferring them according to the date of their commissions, and the rank they had in the army; for as no man can in time of peace acquire any great degree of military merit above his equals in rank, I can see no bad consequence that could ensue, should it be made a standing rule in time of peace, to prefer every officer in his turn. I am sure, it would prevent a great deal of injustice, and it would lessen that danger which our constitution is exposed to by the number of officers that have seats in the other House of Parliament.

This, my lords, brings me to consider the additional danger which our constitution must be exposed to, by subjecting our half-pay officers to the penalties and punishments of this Bill; and indeed, when this is considered, it will be easy to see the true reason why this clause was introduced. We have now many half-pay officers of good families, who may be of great service to a minister at elections, if properly posted and properly disciplined: Before the introduction of this clause every half-pay officer posted himself where he pleased, and if a minister required any service of him, which he could neither in honour nor in conscience comply with, he might boldly refuse, and trust for his preferment to a change in the administration. But if this clause passes, no such officer can post himself where he pleases, or refuse to obey any directions that are suggested to him from the secretary at war. If a new election happens in any place where a half-pay officer or his family have any interest, he will be ordered thither, though then, perhaps, 2 or 300 miles distant, and an injunction secretly laid upon him, to use all his interest in favour of the court candidate. If he refuses to go to the post assigned him, he is to be shot for disobedience: if, when there, he does not punctually observe the secret injunctions given, he must expect to be sent upon some sleeveless errand to America, perhaps, to



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the West Indies, where his half-pay will scarcely suffice to wash his linen.

Then, my lords, upon a general election, we may expect that all the half-pay officers will be called from their respective retirements, and every one sent to that place where his influence may be of the greatest service at the election; and the injunctions as well as the orders sent they must obey, otherwise they may depend upon being ordered to the quarters that are supposed to be most inconvenient for them, and perhaps every month ordered to new quarters at a great distance from the former; therefore, we must suppose, that all the half-pay officers will behave in the most submissive manner to the minister's directions, or otherwise we may reasonably suppose, that such vexatious orders as I have mentioned will be often sent them.

Thus, my lords, by subjecting the half-pay officers to this Bill, we shall make them of as dangerous consequence to our constitution as the officers in full pay now are: they will indeed be of more dangerous consequence; because, as I have said, the secretary at war, or commander in chief, will have a greater power over them than he has over the officers in full pay; and when I consider the late methods of disbanding, and the many dangerous additions and amendments that have been made, or attempted to be made, both to this Bill and to the articles of war, I cannot help apprehending, that there are some amongst us, who have formed a design to overturn our happy constitution, and to set up in its stead an absolute military government. What else can be the reason of loading the public with maintaining in time of peace a greater number of officers, in proportion, than ever were thought necessary in time of war? Surely, if a captain and two subalterns can make 100 private men do their duty in a day of battle, they may make the same number of men do their duty on a day of review; and if a colonel, lieutenant-colonel, and major, can govern a regiment of 1,000 men in time of war, they can govern as numerous a regiment in time of peace. It is plain, my lords, that such a number of officers are, in time of peace, kept in full pay for some other service than that of the military; and now the half-pay officers are to be made use of for the same sort of service: what else can be the reason for subjecting men in time of peace to the punishment of death, for taking, by accident, a short nap when standing sentry at Windsor or Hampton-court? What else could have tempted men to make it death for an officer to refuse obeying the commands of his superior officer, whether lawful or not, which was designed by the first draught of this Bill? Other noble lords may look with indifference upon such attempts, but really they give me the utmost uneasiness; and as I think the military law already too far extended, I cannot agree to its being farther extended; therefore, I shall conclude with moving to leave out of the last clause of this Bill those words, that relate to reduced officers in the land forces and marines.

Earl *Cadogan*:

My lords; I do not pretend to be a lawyer, but, I think, I understand a little of common sense as well as the English language, and if every one had been of my opinion, there would have been no occasion for introducing the words which the noble lord has moved to leave out, nor would there have ever been any dispute about half-pay officers; for as the Bill now before us, and every Mutiny Bill for many years past, expressly enacts, That if any person being mustered, or in pay as an officer, shall be guilty of such or such crimes, he shall be subject to such or such punishments, I cannot suggest to myself a reason for thinking, that half-pay officers are not comprehended under such general words. The preamble, indeed, mentions a particular number of troops, but the enacting words are general, and certainly comprehend every man that is mustered, or in pay as an officer; and it is necessary they should do so. The number mentioned in the preamble is only to shew, what is the opinion of king and parliament at that time, with respect to the number of troops then thought necessary for the defence of the realm; but never was thought to be intended to confine the operation of the Bill to that number only, as is plain from the words afterwards added, for extending the operation of the Bill to the troops in Ireland, Minorca, Gibraltar, or any of his majesty's dominions beyond the seas; for none of the troops maintained in any of those places are included in the number of troops mentioned in the preamble; and even here at home, if after the parliament rises, any unforeseen emergency should render it necessary to augment our army, his majesty may certainly levy as many additional troops as he shall

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then find necessary, and those new levies would become all subject to the Mutiny Bill passed the preceding session. But if the enacting clause were to be confined by the number mentioned in the preamble, not only those new levies would be exempt from military law, but the whole army would become exempt; because, if there were but one man more than the number mentioned, every man might contend that he was the supernumerary man, and consequently not subjected to the penalties or punishments of the last Mutiny Bill.

I therefore think, my lords, that no man but a lawyer can doubt, much less suppose, that the first enacting clause of every Mutiny Bill was not intended to comprehend every person who was or who should be mustered, or in pay as an officer, during the time the Bill was to continue in force; and if I understand any thing of the English language, the word 'pay' comprehends half-pay as well as whole pay. Pay, my lords, is the general term, and like every other such term, comprehends every species of which half-pay and whole pay are two; and if we usually mean whole pay when we make use of the general term, it is what is often done in our language with respect to almost every general term, which is sometimes made use of for signifying one species only. Therefore, whatever was intended when the half-pay was first established, which no one can now declare, it is plain, that half-pay officers have always since been supposed to be in the service, by the name given to what they receive from the public; and accordingly they are obliged to give notice at the secretary's-office, of the place where they reside, and to send up half-yearly a certificate of their being alive. So likewise they may be employed in some sorts of service without a new commission; especially in garrisons where there is no officer of equal rank: even when they receive a new commission, they take their rank from the date of their old commission; and in both cases they may, and often have the command of officers who have been always in full pay. We all know, that the out-pensioners of Chelsea College have not full pay, yet they are deemed to be in the service, and are often employed in garrisons: nay, some of them were lately sent round the world with a commodore, who has now the honour of having a seat in this assembly; and the officers of the troops of guards lately broke, though but in half pay, are seconded upon other troops, some of them upon mine, and consequently are under my command.

From all which, my lords, I think, nothing can be more evident, than that half-pay officers were always comprehended under the general words of the first enacting clause of the Mutiny Act; and accordingly, some of them were, in 1715, tried by a court-martial, and by the sentence of that court shot for joining in the Rebellion; but as some lawyers were then pleased to object against the legality of that proceeding, the question always remained in dispute till last year, when the words now objected to were added to the Bill then passed, for putting an end to the dispute, by subjecting them by name to the penalties and punishments of the Bill. And as I think it not only just, but necessary, that every man who receives pay from the public as an officer or soldier, should be subjected to such regulations as may make him useful to the public as an officer or soldier, I shall be for leaving the Clause as it now stands. If any gentleman of fortune now upon half-pay should think it a hardship to be subjected to such regulations, he may easily free himself by giving up his half-pay. I believe I may take upon me to assure him, that his majesty will not look upon this as a leaving of the service, but will be as ready to prefer him in his turn, as if he had continued to receive his half-pay, provided he declares, that he does not give up his half-pay with any design to leave the army, but because he is resolved not to be burthensome to his country in its present distressed condition, when it has no occasion for his service.

As to other gentlemen, my lords, who have nothing but their half-pay to subsist on, I believe no one of them is in the least afraid of being called from his retirement, or sent to any place in which he does not chuse to reside without being restored to full pay, and upon that condition most of them, I am convinced, would be glad of a summons, even supposing it were to go to America or the West Indies. In short, all the hardships and all the constitutional dangers which the noble lord was pleased to set in so terrifying a light, proceed from a supposition, that a most wicked use will be made of the powers to be granted by this Bill; and such arguments may be made use of against the most necessary powers that ever were, or ever can be granted; but to all such a short answer may in this case be made, that the law is

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to continue but for a year, and every abuse may be prevented by proper cautions in the next Mutiny Bill.

But, my lords, as to the public service and the security of the government, I think it absolutely necessary, that the half-pay as well as the whole-pay officers should be kept subject to military law and discipline, if it were for nothing else than to prevent some gentlemen of fortune, who design never to serve any more, from continuing a burden upon their country. While peace remains, and the apprehensions of war are at a distance, they continue to receive their half-pay, but as soon as clouds gather and a rupture seems to approach, they then declare off, and give up their half-pay. Now, if half-pay be a sort of retaining fee, as the noble lord was pleased to call it, I think they ought to be made to do, as the lawyers do, they ought to be made to return the fee, that is, all they have received by way of half-pay since their last being in the service; and if they should refuse, I think, it would be right to empower the government to force them into the service, and send them upon the most distant and fatiguing duty.

Another reason, my lords, for subjecting half-pay officers to military law, is to prevent their joining in any insurrection or rebellion. I shall grant, that at such a time, it would not be prudent to give disaffected officers any command in our army; but surely it is prudent to take the most effectual methods for preventing rebels being joined by men bred to arms and military discipline; and can we take any more effectual method than that of putting them upon the same footing with deserters? This, my lords, will always have a very good effect, because it will prevent men of disaffected principles from ever entering into our army. If gentlemen were supposed to be entirely free from military law, the moment they come upon half pay, during the time of a foreign war, numbers of such men would procure themselves commissions in our new raised regiments, in order to learn the military art and discipline, and to be supported by that government which they were resolved to overturn as soon as an opportunity offered; and as nothing can tend more to the security of our present government, than to prevent such a practice, I must give my negative to the noble lord's motion, because if those words, after being once inserted, should, by a resolution of this House, be left out, it would be a determination, that the parliament never meant by the first enacting clause of the Mutiny Bill to subject half-pay officers to the penalties and punishments of the Bill, and in some measure a declaration, that it never would do so, which would of course give great encouragement to the practice I have mentioned, and might occasion the overthrow of our present happy establishment.

The Earl of *Bath*:

My lords; I do not think it signifies much to enquire, whether half-pay officers were ever intended to be comprehended in the first enacting clause of the Mutiny Bill, because the question now before us is, whether it be proper or necessary to subject them to martial law; but as the two noble lords have spoken fully upon the first question, I shall likewise give my sentiments upon it; and I must say, that when a number of troops is mentioned in the preamble, which has not always been done, I cannot think the parliament ever intended that any greater number of his majesty's subjects should be subjected to martial law, unless such intention be particularly expressed in the preamble. My reason, my lords, for thinking so, is, because, when it has been apprehended that a greater number might become necessary, the preamble has always run, 'And whereas it may be necessary to raise others for the like service;' or words to this effect; which words would never have been added, if it had not been thought that the extent of such bills was otherwise confined to the number mentioned in the preamble. I mean, my lords, within the kingdom of Great Britain; for as to Ireland, or his majesty's dominions beyond the seas, there is no occasion for a Mutiny Act; because in all those places his majesty may keep standing armies, and may govern those armies by martial law, in virtue of his prerogative, though there were no such thing as a Mutiny Act passed in this kingdom; and therefore the mentioning of them in the first enacting clause seems to proceed from the maxim, that abundance of the law does not break the law.

Then, my lords, as to any additional troops, which it may become necessary to raise during the recess of parliament, on account of an invasion or rebellion, do not we know, that in all perilous times, our king has, by his prerogative, some such power as the people of Rome used in such

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times to confer upon their consuls, in these words, 'Dent operam, ne quid res-'publica detrimenti capiat.' In such times the Mutiny Act becomes useless, because it is meant only for times of internal tranquillity: the king may then raise what armies he thinks necessary, and he may establish such articles of war and appoint such courts as he thinks proper, for making those armies observe an exact discipline; but I must observe, that upon all such occasions a wise minister will advise his sovereign to call a parliament as soon as he can, and to keep that parliament sitting till the danger be over; because it is always more prudent for a king to act by authority of parliament than by authority of prerogative; and so likewise, a wise minister will never advise the king to keep too great an army in Ireland, or any other foreign dominion; because we have a right to limit the exercise of any prerogative, when there is just reason to apprehend its being of dangerous consequence to our liberties.

My lords; from these observations it will appear, that neither the mention of Ireland, nor the casual necessity of raising more troops, can be made use of as an argument for proving that the parliament ever meant to have the general words of the first enacting clause extended to a greater number than that mentioned in the preamble, unless when proper words are inserted for that purpose; and therefore, if any future king, for I am sure his present majesty never will: I say, if any future king should, without the appearance of any danger, raise and keep up a greater number of troops than that mentioned in the Mutiny Bill, it would, in my opinion, divest him alone of the power to try and punish any man in his army by martial law.

But supposing, my lords, that the general words in the first enacting clause were meant to extend to any additional number the king might afterwards raise, I hope the noble lord will excuse me, if I say, I am surprised how any one can think, that they extend to half pay officers, while they remain in half pay. The noble lord may as well say, that half a year is a year, or half a mile a mile, as to say that half pay is pay: is it not a common question to ask, is such a gentleman in pay? And is it not common to answer, No, he is but in half pay? Besides, my lords, the half pay officers are really not in the service; when a regiment or independent company is broke, the officers are really as much broke, and as much out of the service as any of the common soldiers; and the half pay they enjoy is only a benevolence given them by their country, that they may stay at home and be ready to enter into the service again when called on: they had it from the beginning, they still have it without any condition: even that of entering again into service when called on, they always might have refused, till last year, without any other penalty or punishment than that of having a stop put to their half pay from the day of their refusal. To say, that they are in the service or subject to martial law, because they are obliged to send a certificate to the pay-office half yearly, of their being alive, is something very strange. Why, my lords, all annuitants for life are obliged to send certificates of their being alive. At this rate I must deem myself in the French service, because I have an annuity in France, and am obliged to send thither a certificate of my being alive.

Then, my lords, as to those out-pensioners of Chelsea-college, that were sent out with lord Anson, they were all volunteers: they had 20s. a man bounty, or more properly listing money; and I cannot yet conceive what was the design of sending such men upon such an expedition, unless it was to disappoint its success, or the equally cruel one of getting rid of so many pensioners upon the public: if the latter, I must confess, it succeeded as well as could be wished; for of the 500 sent out, I believe very few ever returned to England; and as to an half-pay officer's being sent to command in a garrison, without a new commission, if he accepts of the service, he of course subjects himself again to martial law: so likewise, if the officers of the troops of guards that were broke, have accepted of being seconded upon other troops, they have again subjected themselves to martial law; but by the breaking of the troops they belonged to, they were out of the service, and could not have been compelled to have entered into it again; for in time of peace no British subject can be compelled to give up his birth-right in the laws of his country, by entering or returning into the military service. If a half-pay officer again accepts voluntarily of whole pay, or of any command, he again lists himself in the military service; but he cannot, or at least he could not before the Mutiny-Act of last year, have been

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compelled to accept of either, any other way than by striking him off the half-pay; and generally, when such an officer is again taken into service, he receives a new commission, pays fees at the secretary's office, and to the judge advocate; for at the war-office no officer is loaded with any fees, and he serves by virtue of that new commission, though by the custom of the army he ranks according to the date of the old; but this custom can no more make a half-pay officer a whole-pay one, than such a like custom can make a lieutenant-general an ensign, because, perhaps, he ranks according to the date of his ensign's commission; for if two lieutenant-generals had their commissions the same day, they rank according to the date of their commissions as major-generals; if these likewise of the same date they rank according to their commissions as brigadiers, and thus quite down, if necessary, to their commissions as ensigns.

I must take this opportunity, my lords, to return my thanks to Mr. Secretary at War, for sending me some papers relating to an affair that happened while I was in that office: his design, I suppose, was to prevent my behaving upon this occasion in any manner that might seem inconsistent with what I did at that time: for which I am obliged to him. But as I never pretended to be infallible, especially, in matters which depend upon the decision of a nice point of law, I am not at all ashamed of giving now my opinion contrary to what I was then obliged to do by virtue of my office. From those papers it appears, that so early as July 1715, all half pay officers were voted into full pay by the other House: the beginning of August following, they were apprized of it by an advertisement in the Gazette, and ordered to be ready to repair to the places afterwards to be appointed: and in September they were by another advertisement ordered to be against such a day at the places appointed respectively, such as Exeter, Bristol, Chester, York, Newcastle, according to the regiments they had formerly belonged to, under the pain of being struck off the list of half-pay.

My lords; this last advertisement plainly shews, that at the time it was published, when people could judge a little coolly, the opinion was, that half-pay officers were not subject to martial-law; for otherwise the orders would have been issued under pain of being deemed deserters and punished as such; because the new Mutiny Bill of that year was passed, and began to be in force from the 1st of August, the preamble of which included not only the troops then on foot, but such as should be raised for the defence and service of the realm; and the first enacting clause was, that every person being in his majesty's service in the army, or mustered, or in pay as an officer, who shall desert his majesty's service in the army, shall suffer death, or such other punishment as by a court-martial shall be inflicted. But a Rebellion having soon after broke out and come to a great head, four half-pay-officers who had joined the rebels with the king's commission in their pockets, and without having given any notice of their leaving the service, were taken at Preston: then, indeed, people's zeal, or rather their resentment, being raised to a great height, his late majesty was advised to issue orders for trying and punishing those officers by martial law, and those orders were by me, as Secretary of War, transmitted to the proper officer at Preston: in pursuance of which the unfortunate gentlemen were tried by a court-martial, and shot for desertion. But what was thus done in the heat and hurry of a dangerous rebellion, can never be an argument for proving, that half-pay officers were, or ever ought to be subjected to martial law: for at such times many illegal things are done, and often must be done; for which reason an act of indemnity is always passed, with respect to every illegal thing done for the king's service.

Thus, my lords, I have given you an account of what was then done; and the small share I had in it, is so far from preventing my doing or saying what I think right upon this occasion, that I think myself obliged to declare the more openly the opinion I have since formed upon due consideration, and consulting with the best constitutional lawyers in the kingdom; which is, that half-pay officers never were subject to martial law till this last year, and that they ought never for the future to be made subject to it; for which reason I am for leaving out of this Clause the words which my noble friend has proposed to be left out.

The Duke of *Bedford*:

My lords; as to the question, whether half-pay officers be included in the first enacting clause of this Bill, if we attend to reason, and not to a play of words, it is impossible, I think, we should doubt

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of it. In my opinion, they are not only included in the first clause of this Bill, but have been included in the same clause of every Mutiny Bill that has passed, ever since we had any such amongst us; and the arguments I have heard against it, seem to me to proceed rather from the niceties of schools than from any solid reason; therefore, I wonder, I have not heard the old proverb mentioned, that half a loaf is no bread, and applied by those who have argued upon the negative side of this question; because it is as good an argument in their favour, as any they have made use of: yet if I saw, that a man had eat half a loaf to his dinner, it would be impossible to convince me, that he had eat no bread. But to be serious, a learned judge has told us of its being held as a certain rule in the interpretation of laws, that when the preamble of an act is particular, the enacting clauses are no way confined by the preamble, because the preamble only shews the reason for making such an act at that particular time; and for an example he gave us the act made the 23d of Charles 2, making it felony, without benefit of clergy, to cut off or slit a man's nose by lying in wait, and with an intention to disfigure him, which act was made on account of a most atrocious assault upon sir John Coventry, then a member of the House of Commons, for which reason it has ever since been called the Coventry Act, because the assault upon that gentleman was the cause of it.*

We likewise find in our law books, my lords, many examples, where the words of an act have, from a parity of reason, been extended to persons not expressly mentioned in the act; and particularly we may observe, that by an act of 5 Eliz. it was enacted, that mariners and gunners should be comprehended within the meaning of the statute of 18 Hen. 6, against soldiers, retained to serve the king, who should refuse to go with, or depart from their captain without licence. But in our Mutiny Acts there is something more express; for there is not only the same reason, for subjecting half-pay officers to military law, that there is for subjecting those in full pay, but the former, I think, must be meant to be comprehended, otherwise the words, 'or in pay,' would be quite useless, because all officers in full pay are regularly mustered; consequently, if they only had been meant to be comprehended, there would have been no occasion to add the words, 'or in pay.'

I have said, my lords, that there is the same reason for subjecting half-pay as whole-pay officers to military law; and this, I think, must be acknowledged by every one who considers the great expence which the public is put to, in providing half-pay for such a number of them, and the small or rather no title many of them have to claim any reward for past services; for should a young gentleman buy a commission in any regiment here at home, and the regiment be broken before he got to it, he would of course be put upon the establishment of half-pay. Could such a one pretend, that he had merited such a reward from the public by his past services? No, my lords, he could have no such pretence; therefore the half-pay must be looked upon as a retainer, and a gentleman's accepting of it, must be looked on as an engagement, that he shall be ready to serve the public again in the same station as soon as called on to do so: if he breaks that engagement: if after subsisting by the public, perhaps for 20 years together, he refuses to serve the public when it has occasion for his service, the government ought to have a power, whether they use it or no, to punish him in some more severe manner than that of striking him off the list of half-pay,

For these reasons, my lords, it has always been deemed, so far as I have ever heard, that half-pay officers were, by the first clause of every Mutiny Bill, made subject to the penalties and punishments by the Bill inflicted, and liable to be tried by a court-martial, as therein appointed. They were so in 1715; for if they had not, neither the vote of the House of Commons, nor the advertisements, mentioned by the noble lord who spoke last, could have made them so, and consequently it would have been downright murder in the eye of the law, with respect to every one concerned in putting to death the four half-pay officers then tried and condemned by a court-martial, and shot in pursuance of the sentence of that court. But, in my opinion, there was not the least doubt to be made of their being subject to the Mutiny Act then in force; and therefore, I think, the noble lord who spoke last, and who was then Secretary at War, did right in signing the order for trying them by a court-martial, though neither of them had accepted of the whole pay offered, nor re-

* See vol. 4, p. 461.



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paired to the places appointed by the advertisement for that purpose.

I am, therefore, clear in opinion, my lords, with the learned judge, and with many other learned lawyers in this kingdom, that if the words should be left out, as now proposed, the half-pay officers, both of the land forces and marines, would nevertheless be subject to the penalties and punishments of this Bill; but as some people have been pleased to doubt of it, and as our leaving those words out would confirm them in their doubts, I shall therefore give my negative to the question.

The Earl of *Bath:*

My lords; I must beg the noble duke's pardon in not agreeing with him to call the execution of the four half-pay officers, in 1715, murder, for I am sure it was done without any malicious intent, and no one will deny their having deserved to be punished with death, though that punishment was not inflicted according to the legal method prescribed by our constitution. To call such a mistake murder, will reach much farther than the noble duke imagined; for as all concerned in murder are held to be principals, the members of his majesty's council who authorised the order, and the members of the court-martial who carried it into execution, as well as the secretary at war who signed and transmitted it, must be guilty of murder, which, I think, is carrying the matter a great deal too far.

Besides, my lords, the Secretary at War is but a ministerial not a constitutional officer, and is obliged to issue orders according to the king's direction, when properly authenticated to him. A man of spirit will, it is true, refuse to sign or transmit orders which he knows to be unjust and illegal, and will rather resign than comply; but when it is only a matter of doubt, I think he is obliged to obey, because a delay in the execution may be attended with danger to the state. This, however, was not then my case: I do not yet doubt of the justice, I did not then doubt of the legality of the order I signed: I then thought I was right in what I did; but when I had time to consider the question more maturely, and to weigh all the consequences, I concluded, that half-pay officers neither were, nor ever ought to be included in any Mutiny Bill: I am still of that opinion, and therefore must be for the question.

Viscount *Lonsdale:*

My lords; I am sorry to hear disaffection represented in such a hideous light, as it has been by several noble lords who have spoken upon this subject. I am sure we have no reason to think so from what appeared upon a late trying occasion; and I am afraid, that the alterations and additions that have been made to the Bill now before us, will no way lessen that disaffection; for they will raise, they have already raised discontents and fears in the minds of many of his majesty's subjects. The officers of the army, it is true, can never become disaffected; but they may become discontented, and their discontents may raise disaffection in others. The loyalty and obedience of Englishmen has always been, and I hope always may be preserved, not by rigid laws and severe punishments, but by a true sense of honour, and of the duty they owe to their country; therefore, when rigid laws and severe punishments are enacted, with regard to the gentlemen of our army, it will naturally be supposed, that they are to be employed in such services as neither honour nor duty can lead them to perform.

I wish, my lord, this question, in relation to half pay officers, had never been brought upon the carpet: I am sure, there was no necessity for it: have we not seen them, upon all occasions, upon the first surmise of a war, an invasion, or rebellion, flocking up to London and offering their service to the government; nay, soliciting to be employed? And those who were at a great distance and not able to bear the expence of a long journey, have they not always desired their friends here, to give notice to the administration, that they were ready, at a call, to repair whereever ordered? Do not we know how ready they were to engage in that dangerous expedition to the West-Indies, at the beginning of the last war, where they had more to fear from the climate than from the enemy? Can we have forgot how many of them lost their lives in that fatal expedition? It has, upon all occasions, appeared, that more of them have offered their service than could be employed; and I do not at all wonder at it, for where duty, honour, interest, and glory unite in the call, can a man, who has any thing of the spirit of a soldier, refuse to obey? If any should refuse, would you force such men into your army, and leave those at home who would rejoice at being employed?

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These things, my lords, are so well known, that we are at a loss to find out a reason for a minister's desiring to subject half-pay officers to the penalties and punishments of this Bill: no good one can be assigned; and therefore people are apt to suggest to themselves a bad one: they are apt to suppose, that our ministers have some wicked schemes in view, and that they are resolved to employ the army as well as the half-pay officers in services, which no man of honour will engage in, unless he be compelled by rigorous laws and severe punishments. The doctrine of passive obedience, my lords, had, I thought, been long since almost entirely rooted out of this kingdom; but by our Mutiny Bills we are, step by step, going farther than that doctrine ever went; for we are going to establish not only passive but active obedience among a very considerable part of his majesty's subjects. As I was always against the doctrine of passive obedience, so I shall be against any extension of this new doctrine of active obedience.

But we are told, my lords, that the words now proposed to be left out, contain no extension of the military law, because half-pay officers always were comprehended in the first clause of every Mutiny Bill, and thereby subjected to military law. I am sure, no one of them I have conversed with ever thought so, and no argument I have yet heard can convince me that it was ever so. There may be in an act of parliament some pretty general enacting clauses, after a particular preamble; but I cannot think, that any judge would venture to extend a penal law to persons not described either in the preamble, or in any of the enacting clauses. For example, a man that lies in wait with a design to murder a man, and happens only to disfigure him, certainly deserves death as much as he that lies in wait with a design only to disfigure a man, and succeeds in his design; yet if the former was indicted upon the Coventry Act, and it should come out upon the proof, that the prisoner had no design to disfigure but really to murder, and with such a weapon as could not leave room for supposing that he intended to murder by maiming, I doubt much if any judge in England would, from a parity of reason, venture to condemn him to be hanged upon that indictment; for one of the great securities for the lives, liberties, and properties of the people of this kingdom is, that penal laws are to be strictly interpreted, and not, from what a judge may fancy to be parity of reason, extended to persons or offences not expressed or described in the statute.

Now, my lords, as all our Mutiny Acts are not only highly penal, but derogatory to the common law of the kingdom, therefore they ought to be more strictly interpreted than any other sort of penal laws; consequently, they can never be understood to comprehend half-pay officers; and the statute of the 5th of Elizabeth, which the noble duke was pleased to mention, is so far from being an argument for their being so understood, that, in my opinion, it is flatly against it; because it shews, that a clause in an act of parliament was necessary for extending the statute of the 18th Hen. 6, to mariners as well as soldiers retained to serve the king in his wars. No one doubts but that a new act may extend a former act to persons not before named or described; but this act shews, that it cannot be done by interpretation; for as mariners retained to serve the king in his wars, may properly enough be called sea soldiers, and more properly than half-pay officers can be called officers in pay, the 18th Hen. 6 might, by parity of reason, have been extended to them without a new act, if such a thing had ever been done, or were allowed to be done by our constitution.

Then, my lords, as to the words mustered, 'or in pay,' I must observe, that in our first Mutiny Acts, and, I believe, in all of them till the 7th or 8th of queen Anne, the words of the first enacting clause were thus; Every person being in their majesty's service in the army, and being mustered and in pay as an officer; by which words a gentleman of fortune who served in the army without receiving any pay, could not be made subject to the Mutiny Act, or tried by a court-martial, at least here in England, in the time of peace; but this, it seems, was not thought proper, and therefore the disjunctive 'or' was afterwards put instead of the conjunctive 'and,' plainly with an intention to make all gentlemen, who served in the army, subject to the laws of the army, whether they received pay or no; for it is certain, it could not be done with an intention to include half-pay officers, because the alteration was made during the heat of the war in queen Anne's time, when there were none such in being; and the clause thus altered has been continued ever since, I believe, with the same design; for if the words, 'or in pay,' should be again altered



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to, 'and in pay,' many gentlemen of fortune might chuse to serve as officers, without receiving any pay, to prevent their being subject to martial law, which would not perhaps be agreeable to our ministers, though, I think, it could not, here at home, and in time of peace, be of any disadvantage to the service, and would be extremely agreeable to me; for I should be glad to see young noblemen and gentlemen of fortune qualifying themselves to serve their country in time of war, without being any way burthensome to the public. This would add to the character and reputation of our army, and would make it much less dangerous to our constitution; because the custom of receiving pay, may, in time, give a mercenary turn to the temper even of a man of fortune, which may prevail with him to hold his commission, and expect preferment or rather a greater pay, upon terms which he would not otherwise have submitted to.

By such means, my lords, we might render our army much less expensive than it is at present; and this, I am certain, we have great occasion for. We are now got into a most terrible situation: we are not now able to bear the expence of a war, should it become ever so necessary: nay, we cannot bear even the expence of peace, without neglecting the sea service, which is our sheet-anchor; and what adds to our misfortune is, that our circumstances are well known to all our neighbours, which of course will incline our friends to neglect us, and our enemies to insult us; so that the less able we are to bear the expence of a new war, the more we are in danger of being forced into one; for in public life it is the same as in private, those that are known not to have courage or ability to revenge the wrongs they meet with, are but more exposed to be wronged: nay, in public life this maxim holds more certain than in private, because compassion may operate in favour of an innocent weak man, but among states and princes compassion was never allowed to have admittance. 'Væ victis esse,' was the answer of the insolent Gauls to the just complaints of the Romans, who were with gold redeeming the poor remains of their pillaged and burnt city: Heaven avert their having it ever in their power to make such an answer to this nation.

My lords, if they ever have, it will be occasioned by our neglecting our true strength, which consists in our militia and navy, and trusting for our defence to a mercenary army, taught to observe all the punctilios of a review, and kept in obedience by sanguinary laws and quick executions. For my own part, I never thought that such laws, or such executions, were necessary for keeping the officers and soldiers, even of a standing army, to their duty in time of peace; but I am sure, I shall never be for extending their dreadful operation to gentlemen who have been dismissed the service, and are allowed, by their country, only a small pittance to subsist on, that they may be ready, whenever their country shall again have occasion for their service; and I am the more against it, because of the two new doctrines I have heard supported in our debates upon this Bill; one of which is, that the government is not absolutely bound to restore our half-pay officers to full pay, even when they call them out to service; and the other, that no man, who once accepts of a commission in the army, can resign his commission and leave the service, without leave from his majesty or the chief general. These I call new doctrines, for I confess they are so to me; and they add considerably to my apprehensions of a regular standing army. I never thought that a gentleman, who has the honour to bear his majesty's commission, was, like a common soldier, bound to serve during life, whether he would or no; nor did I think, that the government could call a gentleman on half-pay from living at free cost, with a father or brother in the country, and send him to the West Indies, without restoring him to full pay. It signifies nothing to tell me, that such things are never done: if they can be done, I must look upon every gentleman in the army as a slave for life, and preferable to other slaves only by the nature of his service. But if this Bill passes as it now stands, half-pay officers will be in a still worse condition. As the Mutiny laws formerly stood, a half-pay officer might have refused to serve, unless restored to full pay, without incurring any other punishment than that of losing his half-pay; but if made subject to military law, he is to be shot if he refuses, so that he is made a slave for life, without any certainty of a sufficient subsistence, which is a condition to which I shall never agree to reduce any fellow subject, unless he has committed some crime for which he deserves to be hanged.

I shall admit, my lords, that it would be wrong in a half-pay officer to refuse serv-

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ing when called on, if the service required be no way inconsistent with his honour or conscience, and an offer made of restoring him to full pay; and I admit this, because I look upon half-pay as a sort of retainer for future, as well as a reward for past service. I say, my lords, a reward as well as retainer; for I hope no commission in the army is ever given, without the merit of some passed service: I mean military service. I hope commissions are never put up to sale, and given to the highest bidder: I am certain they should never be so; and I remember, that in one of the Mutiny Acts in king William's time, there was a clause enacting, "That every commission officer should, before being mustered, or his commission registered, make oath, that he had neither directly nor indirectly given nor promised any sum of money, present, gift or reward, to any person whatsoever for obtaining his commission, other than the usual fees." Such an oath, I am told, is still required in the Dutch service; and I wish it had been still continued in ours; for the sale of commissions in the army ought, I think, to be absolutely prohibited, except in one single case alone, which is that of an old superannuated officer, who has served long and faithfully, and has a family to provide for. In such a case, indeed, a sale might be allowed; and if it were, the purchaser could not be said to have no merit to plead for being put upon half-pay, even though the regiment should be broke the next moment; because he purchases, and consequently may plead the merit of his predecessor.

My lords, for this reason, I say, that half pay ought to be looked on as a reward as well as a retainer: but suppose it were to be looked on as a retainer only, and that it was a crime in a half-pay officer to refuse serving again when called on, I think his loss of half pay for the future, is a punishment severe enough for that crime, and even too severe when he has a good reason to plead for such refusal, which too frequently happens; because they are often shouldered out of their rank in the army by favourites; and when they are, they have a good reason for refusing to serve, unless they be restored to that rank which justly belongs to them. But to put their refusal in the worst light, death surely is too severe a punishment, and a punishment, which, for another reason, ought not to be inflicted, because it may compel them to go upon services, and execute orders, that are inconsistent both with honour and conscience.

My lords; these services I need not explain, as they have been so fully set forth already by the noble lord who spoke first in this debate; but I must observe, that it is no sufficient answer to say, the Bill is an annual Bill, and if a bad use be made of the powers now granted, we may leave them out, or provide a remedy against them, in the Bill to be passed next year. My lords, a very bad and dangerous use may be made of almost any power, and yet it may be very difficult, if not impossible, to prove it. If you cannot prove it, the advocates for power have a prevailing argument, 'No bad use has been made of this power, why should it not be continued?' I shall always, therefore, be against granting any new power, but what appears to be absolutely necessary, 'quia me vestigia terrent;' for I must observe, that in the course of our Mutiny Bills from their first original, many good clauses have from time to time been introduced, which, like meteors, have disappeared in a session or two, but no one bad clause, for such I call every increase of military power or punishment, or very few, could ever be got rid of after it was once introduced. The Bill being an annual Bill can, therefore, my lords, be no excuse for giving way to the introduction of any clause that may be of dangerous consequence to our constitution, and is no way necessary for the good government of our army. Such, I think, the Clause now under consideration would be, should it pass into a law as it now stands; and for this reason I shall be for the amendment proposed.

The Earl of *Sandwich:*

My lords; there are two sorts of half-pay officers, who ought to be distinctly considered in our deliberations upon this Bill; I mean those who have nothing but their half-pay to subsist on, and those who have an estate of their own, or some other employment sufficient for supporting them like gentlemen. Now I am so far from looking upon the half-pay as a reward for past services, that when it was first established, I believe it was designed for the first sort of gentlemen only; and that the distinction was not then made, because it was not supposed that any man would be so avaricious as to desire pay from his country, when he could do his country no service, and could support himself without any such assistance. The practice is so

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scandalous in itself, that nothing but custom could ever have given it a countenance; but the practice has so long obtained, that a gentleman of a large landed estate is not now ashamed of receiving half-pay from his country in time of peace: nay, he insists upon it as his right, and thinks the government do him injustice if they refuse it.

Now, my lords, with respect to the first sort of half-pay officers, I join with the noble lord who spoke last in thinking, that a suspension from half-pay would be punishment enough upon them, for refusing to serve their country when called on; and I believe, should this Clause pass as it now stands, the government would never inflict any other; but with regard to the last sort of half-pay gentlemen, a suspension from half-pay is hardly any punishment at all, though they are by far the most criminal. I am therefore, my lords, for leaving this Clause as it now stands, because it will put it in the power of the government, to inflict such a punishment upon this sort of gentlemen as they deserve; for, I think, all half-pay officers ought to be put upon the same footing, all equally obliged to serve the government when wanted, and all equally punished if they refuse, which is far from being the case at present; for to take half-pay from a gentleman who has no other means of subsistence, is a punishment, in my opinion, worse than death itself; but to take from a man, of opulent fortune, the trifle he receives yearly as half pay, can scarcely deserve the name of punishment; for which reason the government ought to be empowered to inflict some other.

This, my lords, will be one good effect of continuing all half-pay officers in the same state they were in last year, and when it is seen, that they will probably be continued in the same state for the future, that is to say, as much subject to martial law as any other officers in the army, it may produce another good effect, by making all those who never ought to have had half pay, throw it up: I mean all such gentlemen as can live comfortably without it: which will be a considerable saving to the public; and this we have, certainly, great occasion for at present, if we be in such a melancholy state as the noble lord, who spoke last, has represented.

But the principal good effect, my lords, will be that of preventing any half-pay officer from joining the enemies of his country in any rebellion or invasion that may hereafter happen; for whether the military punishment of the four half-pay officers in 1715 was legal or no, it had so good an effect, that no one half or whole-pay officer joined in the last rebellion, though it had, soon after its first appearance, a much more inviting aspect than the other ever could put on. If this effect was produced when it was a doubt, whether half-pay officers were subject to martial law or no, will not the effect be much more certain, after the question is put out of all doubt by an express clause in an act of parliament? And this is an effect, which, I think, we ought at all times to aim at as much as possible; for though I do not think disaffection is now much to be apprehended, yet it ought always to be guarded against, especially in the present circumstances of Europe, when our natural allies are all more likely to be forced to call upon us for assistance, than to be able to send us any, in case we should have occasion for it.

Having thus, I hope, shewn, that whether half-pay officers were formerly liable to the penalties and punishments of the Mutiny Act, or no, they ought, for the future, to be made liable, I have no great occasion to examine the question, whether they were so formerly, therefore, I shall only touch upon an argument or two that have not been mentioned in this debate. That officers in half-pay are deemed to be officers, by all their brethren in full pay, is without question; because, such an officer may be sent with the king's letter to command a garrison or a party, and the inferior or younger officers of that garrison or party will, without scruple, submit to his command; but a man that never had a commission cannot be sent with such a letter to command any garrison or party, because the officers would certainly refuse to submit to his command. So likewise it is plain, that half-pay officers are deemed to be officers by the other House of Parliament; for if any gentleman of that House should accept of a commission in the army, suppose it be but an ensign's, he must be re-elected; but when an officer, a member of that House, accepts of a new and higher commission, it is not judged necessary for him to be re-elected, because preferment in the army, or navy, is not deemed to be a new place or employment; and for the same reason, if a half-pay officer, a member of that House, be put upon whole pay, or receives a new and higher commission, it is not judged

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necessary for him to be re-elected. From whence it is evident, that they look upon a half-pay officer as an officer in the army; which is so strong an argument for the affirmative side of the question, that I wonder it was not mentioned before, by some noble lord better acquainted with the customs of that House than I can pretend to.

But, my lords, I shall insist no longer upon this question, because it is not the proper question in debate. The only proper question is, whether half-pay officers ought to be made liable to the penalties and punishments of this Bill; and as I am clearly of opinion they should, I am for leaving the clause as it now stands.

Viscount *Lonsdale:*

My lords; I shall admit that the only proper question now before us is, whether half-pay officers ought to be made subject to the penalties and punishments of this Bill; but to that question, surely, it is of some importance to know, whether they ever were made so before last year; for if they have remained free from any such subjection for three or four and thirty years, without any bad consequence, there can be no reason for us now to strip them of the chief privilege of Englishmen, which is that of prosecuting or being tried by a judge and jury, who must be supposed to be impartial, because they have no connection with, or dependance upon those, who carry on or patronize either the prosecution or defence. We ought, therefore, to consider this question, before we determine the other; and I was surprised to hear the noble lord talk to us of the custom of officers in the army, or the practice of the other House, in matters of election, especially in a debate where a nice point of law is to be determined.

My lords, the question is not, whether half-pay officers are officers, but whether they were ever officers liable to be tried by martial law before Lady-day last: and this question seems to have been determined in the negative, even by those who were the draughtsmen of the Bill now before us. In all former Mutiny Bills, the first clause run thus, "Every officer in his majesty's service in the army," but the gentlemen who drew up this Bill, and who, I believe, were some of the best lawyers in the other House, considered, that it would be ridiculous to say, that half-pay officers are officers in the army, since they belong to no regiment, troop, or company, of which that army was composed; and as they were resolved to include half-pay officers in their Bill, they have therefore altered the first clause thus, "If any person being mustered, or in pay as an officer;" so that by thinking themselves obliged to leave out the words, "in his majesty's service in the army," in order to include half-pay officers, they have plainly declared their opinion, that no such officers were ever included in any clause which had these words in it, and consequently were never subject to the penalties and punishments of any Mutiny Bill before that of last year, when they were subjected, as they are now, by an express clause at the end of it.

The first question must, therefore, I think, be determined in the negative, and as no inconvenience ensued, for so long a time, it is the strongest argument that can be urged against the necessity of including such officers in any Mutiny Bill for the future. Besides, the noble lord who spoke last, did himself furnish us with another strong argument, by observing, that no half-pay officer joined in the late rebellion, notwithstanding the inviting aspect it soon acquired. As they were not then subject to any mutiny law, it is a proof that no such law is necessary for preventing their joining in any future rebellion. I am sure, the noble lord did not design any reflection; but I must look upon it as a reflection to suppose, that any officer was then prevented from joining by the terror of what happened to the four half-pay officers in 1715. Can any gentleman be more afraid of being shot than of being hanged? I hope, we have not an officer in our army, that would not chuse to be shot rather than hanged: I hope, we have not many that could be prevented by any terrors from following the dictates of their honour and conscience. But as this is too severe a trial, I am against subjecting them to any such; because such terrors may more probably operate against our constitution, than against any future rebellion or invasion.

I shall allow, my lords, that a man of fortune, who takes his country's pay in time of peace, and skulks from its service in time of war, deserves a more severe punishment than being suspended from his half-pay; but such a behaviour will always carry its punishment along with it, the contempt and reproach of his country; and I am afraid of trusting any administration with a power to inflict a higher punishment, if any higher can be, lest that

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power should be made use of for engaging officers in services which no man of honour would undertake; and lest the suspicion of this might, in time, drive every man of honour out of our army, which, I am confident, is not the design, though it may be the effect, of rendering our military punishments so severe, and extending their influence beyond its usual bounds.

The Clause was then carried by a majority of 72 against 15.

*Mr. Horace Walpole's Speech on the Subsidy to the Queen of Hungary.*] March 21. On a motion "That the sum of 100,000*l.* be granted to his majesty, to be paid over to the empress queen of Hungary, to answer the like sum claimed by her imperial majesty, as an arrear of the sum of 400,000*l.* mentioned in the Convention concluded at the Hague the 26th of January 1748;"

Mr. *Horace Walpole* rose and said*:

Sir; I had flattered myself, with an imagination that we should have saved this 100,000*l.* as a diminution, so far, of the great debt contracted by the war, or as a means to supply a fund for some necessary and useful undertaking for the public benefit, in cultivating the arts of peace; and particularly, that the settlement and security of Nova Scotia, of so much importance to the commerce and safety of our northern colonies, might have been a proper object for that purpose.

But since his majesty has been pleased to lay this demand before us, I must own it has been done in the most gracious and impartial manner, by submitting the reasons contained in the memorial of the queen of Hungary's minister to our free deliberation, without any one expression in the message tending to bias or influence our opinion. I shall, therefore, cursorily take notice of the reasons alleged in support of this claim, and then suggest something, which seems so obvious and right, that it is possible the administration may have already prevented me by taking the measure I would presume to recommend to them; and which, if it should be steadily pursued, and have the desired effect, may make the grant of this sum not so unreasonable, at least to me, as it might otherwise be.

The demand is for the prompt payment of 100,000*l.* part of 400,000*l.* granted to the empress queen by virtue of a treaty signed January 26, 1748: although the certificate (the condition for the payment of that sum,) had not been delivered, under pretence that the troops were upon their march, that the signing of the preliminaries had prevented the arrival of some of them, and that the money was designed to pay the arrears of her generals and officers in the Low Countries, and the troops kept for the defence of them. The pressing instances for prompt payment, besides an air of superiority with which the court of Vienna generally speaks to other powers, seem to imply some more immediate service than that of defending the Low Countries, which I shall take notice of hereafter; but if I was sure that money was to be laid out in repairing the fortifications in Flanders, I should, and I believe every member of the House would readily consent; any assurances, or any appearance of so good a work, would meet with a general satisfaction.

The next reason advanced in the memorials, that her imperial majesty had shewn so much deference to the king's counsels, that, notwithstanding the sacrifices which she was required to make, she came readily into the peace. This ready accession has certainly great merit; although I am inclined to believe, that if the money now claimed had been paid before her accession, she would not have shewn such a readiness. As I am not acquainted with what passed in the negociations and conferences with the queen of Hungary's ministers, to induce her to agree to the preliminaries, I have not so lively and luxuriant a fancy as to form imaginary and supposed facts, and force from them imaginary and uncertain conclusions; therefore, I will not so much as suspect that, in those conferences, any expectations were given of the payment of this 100,000*l.* on that condition. It is plain, by the king's impartial message, that nothing of that nature had passed; and had a minister ventured to offer that temptation, yet I am sure my honourable friend upon the floor (Mr. Pelham) would not have paid it without the consent of this House. But let that be as it will, the empress queen, by coming so soon into the peace, was a great service; and here I cannot forbear to observe the unavoidable inconveniences that are inseparable from an alliance composed of

* From Coxe's Memoirs of Horatio Lord Walpole, Vol. 2, p. 267.

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many powers, against one great and formidable one; the unwillingness of one ally to concur, may obstruct the greatest action, and prevent the most reasonable peace. And had her imperial majesty absolutely refused to agree to the peace, (although it was much more reasonable than could have been expected, from the circumstances of the allies,) we must indeed have made it, because it was impossible to carry on the war any longer: but it would have been loose, and imperfect, and difficult, to have carried it into execution; and, therefore, the ready concurrence of her imperial majesty was of great moment to complete that necessary work, and is a great inducement to me to grant her the 100,000*l.* now demanded.

The last reason for supporting this claim is, that the empress, to shew her regard to his majesty, offers, and is willing to concur with the king, in any means that may be proper to preserve the peace established at Aix-la-Chapelle. I could have wished, Sir, that this offer had been extended farther, not only to preserve the peace of Aix-la-Chapelle, but also the tranquillity of Europe, being apprehensive that new and dangerous troubles threaten the immediate disturbance of it. As to the peace lately made, I am afraid that, if the only considerable power that can do it should attempt to break it, we should be in no condition, jointly with our allies, to prevent or withstand such an attempt. The Dutch are no more; and as to the House of Austria, it is well known that they cannot put their troops into motion without our money, nor into action without requiring from us greater subsidies and supplies than it is possible for us ever to furnish again.

But I am under no apprehensions that the peace of Aix-la-Chapelle will be disturbed. As long as the same principles and motives that brought it about subsist, the peace will subsist too; and, perhaps, I may differ in opinion with many gentlemen in this House, and with multitudes out of it, as to the causes and motives that effectuated the peace; for I by no means attribute it to the distresses that France was under, at the time of making it, to carry on the war. His majesty, by his steady perseverance to act agreeably to our laws and constitution, the bravery of his troops in the field, and our great successes by sea, have gained him the affection of his people, and placed him in an eminence of glory and respect, among all foreign powers, equal to that of any of his predecessors, and, without doubt, had weight in the negociations for peace. But his troops, brave as they are, were commonly beat, bravely indeed beat; but beat still they were of late years, and were by no means able to resist the rapid progress of the French arms, in the Low Countries, either by sieges or battles.

Mr. Walpole then proved that the signature of the preliminaries did not proceed from their losses by sea, from want of money, nor from distresses at home; and asserted, that the moderation of the enemy was derived from the character of Louis the 15th, who had been trained up by cardinal Fleury in pacific sentiments, from the emulation of the nobles in adopting the views of their sovereign, and from their cabals against the two foreigners (marshal Saxe and Lowendahl), who commanded the army in the Netherlands. He also contended, that the same pacific principles would prevail in the counsels of France, during the life of Louis the 15th, provided the same moderation was maintained in England. He expressed his apprehensions, however, lest the affairs of Sweden should excite a new war in Germany and the North: 'And should a flame,' he said, 'be kindled there, although at a great distance from our situation, and from our interests, the sparks, I am afraid, by some fatality, or some unaccountable connection, would blow over into this island.'

The Russians, (he added,) are indeed on their march out of Bohemia, but troops and recruits are daily raising by the Austrian officers; and camps, as well in that kingdom as in Moravia, are marked out by them against the spring. Nor is the king of Prussia less assiduous in increasing and completing his armies; declaring that he is obliged to do it for his own security and defence, on account of the military preparations and motions of other princes in his neighbourhood. The vindictive temper of the court of Vienna, and ardent desires to recover Silesia, are but too evident; they having, notwithstanding the strongest stipulation in the treaty of Dresden to procure the guaranty of the empire for that cession to his Prussian majesty, evaded, upon frivolous pretences, the execution of that article.

If the Austrians have really no design to foment or be concerned in new troubles, why do not they reduce instead of recruiting and increasing their forces? Why are they making encampments in this time of



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peace and tranquillity? They have no present apprehensions either from the Turks or from the French, the only enemies they have to fear. This behaviour must necessarily create jealousies; and I cannot but suspect that the 100,000*l.* now demanded to be speedily paid, with so much earnestness, may be immediately wanted for their military preparations on the borders of Silesia, instead of the defence of the Low Countries. And, therefore, if I may take the liberty, I would most earnestly recommend it to the administration to advise, if it is not already done, the most serious instances to be made to the court of Vienna, and to obtain the strongest assurances from them that they will not encourage or promote any views or steps to disturb the tranquillity of Germany, or the North; but employ their utmost endeavours to check and prevent any such designs.

We have defensive alliances with Russia, with Prussia, and with the empress queen; and if these powers and their allies should be engaged in a war, whoever may be said to be the aggressors, we shall sooner or later be desired to take a part. The court of Vienna may call upon us to come to her assistance; she may call aloud, but we will not, because we cannot come: and therefore, once more, let me exhort those that are in high station, to think of the proper means to prevent the storm that threatens abroad. France is now disposed to live in peace, for the reasons I have already given, and may therefore be desirous to concert with us in preserving the tranquillity of Europe. A good understanding, and a concert of measures, properly employed by his majesty and the French king, among the powers that seem to be busy in military armaments, may, perhaps, have an effectual weight to prevent a new rupture in Germany and the North; and surely the queen of Hungary, in consideration of the supplies that have been so plentifully furnished by this nation, and for the 100,000*l.* now demanded, will have a due regard and attention to his majesty's instances on this great occasion, especially joined with those of France.

Upon the whole, I give my vote to grant this sum of money to the empress queen, on account of her ready accession to the definitive Treaty of Peace, in expectation that it will be employed in the defence, or repairing the fortifications, of the Low Countries; and that she will, instead of meditating troubles in Europe, do all she can to preserve the present pacification.*

The Resolution was agreed to.

* The principal arguments in this Speech, relating to the causes of this sudden pacification, are drawn from a paper entitled, "A Letter to a Friend who desired my Thoughts upon signing the Preliminaries," and written on the following occasion. Bishop Sherlock, who possessed great influence over the duke of Newcastle and Mr. Pelham, having justified the continuance of the war, and attributed the signature of the preliminaries to the disordered state of the French finances, Mr. Etough communicated these observations to Mr. Walpole, which instantly extorted from his fertile pen the "Letter to a Friend," proving the signature of the preliminaries to have arisen from other causes. It was shewn to several persons of distinction, and much approved: lord Chesterfield, in particular, was eager for its publication, which Mr. Walpole declined, from an unwillingness to engage in party politics, and from a fear of giving offence. The effect which this, and other papers, had on bishop Sherlock, cannot be ascertained, unless we may judge from his demeanour to Mr. Walpole, which was uniformly respectful and attentive. But their perusal made a deep impression on the celebrated Dr. Secker, then bishop of Oxford, afterwards archbishop of Canterbury; and removed many prejudices which that prelate had entertained against the administration of sir Robert Walpole. It is with pleasure I lay before the public a Letter which that venerable prelate wrote to Mr. Etough on this occasion.

"St. James's, Westminster, April 11, 1749. Mr. Walpole has been so kind as to make me two visits since you were in town, and hath put into my hands the papers which you intimated he would, with leave to communicate them to the bishop of Glocester; and we have both of us read them with great satisfaction, and a high esteem of the abilities and spirit of the writer, who has shewn the rightest judgment of affairs, supported it with the clearest reason, proposed it, and pursued the proposal with the most steady resolution, and yet the greatest decency and propriety; and (which I could not help taking particular notice of,) hath, in several places, expessed a strong sense of the superintendancy of the Divine Providence. On the whole, I do not think any man living hath deserved so well of this country, in its late situation, as he hath; and I see that his brother deserved much better than I apprehended, though I always both thought better of him, and wished better to him, than some who voted constantly with him. I hope Mr. Walpole's health will long permit him to continue his attention to the public, and that the directors of the public will attend to his advice. The affair of Tobago seems likely to blow over; what may blow from the north, God

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*Debate in the Commons on a Grant to the City of Glasgow, for Losses sustained during the Rebellion.**] April 21. In the Committee of Supply it was moved, "That it is the opinion of this committee, that a sum not exceeding 10,000*l.*, be granted to his majesty, to reimburse the magistrates and town-council of the city of Glasgow the sums extorted from them by the rebels, upon account of their loyalty, during the late unnatural rebellion, for the raising of which the said magistrates and town-council were obliged to grant their bonds.†" This motion occasioned the following debate.

Mr. *George Bowes:*

Sir; as I rise up with a design to oppose this motion, I must premise, that I hope it will not be supposed, that I intend to derogate from the merit, or disown the loyalty of the city of Glasgow, both which will be acknowledged by every honest man in the kingdom. All I intend to say is, that there are, to my knowledge, many places, especially in this part of the United kingdom, that have an equal pretence to loyalty, and that shewed as much zeal for the government's support, during the late rebellion, as that city or its inhabitants; and if they did not suffer as much, it proceeded perhaps from the early care they took to prevent the rebels entertaining any hopes of becoming their masters. The hon. gentleman was therefore much in the right, to endeavour to obviate an objection, which certainly did occur to every gentleman that heard him, and which not only gathered strength from what he said in answer to it, but must gather more and more strength, the more it is considered.

To prove what I have said, Sir, I shall beg leave to go through the several allegations of the Petition. As to the behaviour of the city of Glasgow at the time of, and for some time before the Revolution, there is nobody questions it; but have not almost all the towns in England, and many of those in Scotland the same merit to plead? Therefore Glasgow can claim no particular favour upon that account; and I never heard, that under the government preceding the Revolution, that city suffered any persecution as a city: the presbyterians, indeed, suffered a grievous persecution under that government: and if there were more of that sect there than elsewhere, the people may be said to have been persecuted, but the city cannot.

The behaviour of Glasgow in 1715, is as little to be questioned, Sir: but if they raised a regiment at that time for the government's service, did not many of the counties and cities, both in England and Scotland, raise the militia, which was as expensive as the raising of regiments? And did certainly great service, because the jacobites were thereby prevented from taking arms, and coming to a head in any part of England.

Then, Sir, as to the behaviour and conduct of Glasgow in 1745, I shall admit the facts to be true as there stated: but I must consider them in an order different from that in which they are there artfully stated, because, I think, the order of time in which they happened is the most natural method; and in this method, the first

knows! if we have any wisdom, we shall endeavour to keep clear; but, alas! there seems no disposition to the way which he hath pointed out, and which I fear is the only one."—See Coxe's Memoirs of Horatio Lord Walpole, vol. 2, p. 276.

* From the London Magazine.

† "This grant was strongly opposed by the anti-ministerial party, which consisted of a coalition between the servants of the prince of Wales, and a few independent country gentlemen, who, perhaps, acted entirely upon principle. It was thought, that the city of Glasgow had no particular claim of favour prior to that of other places in the United Kingdoms; and some of the members for the northern counties of England, through which the rebels marched, very properly observed, that if every place that had suffered from them were to bring in a bill of their damages, the expence would be endless, and consequently that the precedent might be dangerous, because it might be followed by many other towns, and even private gentlemen had an equal right to be indemnified. Others insisted, that if the city of Glasgow was really an object of parliamentary favour, it ought to be indemnified out of the forfeited estates of the rebels. On the other hand, the friends of the Resolution endeavoured to shew, that the merits of Glasgow were peculiar to itself; and that no city in the king's dominions, ever since the time of the Reformation, had distinguished itself with equal zeal and success in the cause of liberty. A great deal likewise was said in support of the Resolution, from the particular behaviour of the city of Glasgow, in raising two regiments in defence of the government, even at the time when they were unprotected by the royal forces, which was not the case with Newcastle, and other places in the north of England. At last the question being called for, it passed without a division." Tindal.



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that occurs to our consideration, is the 5,500*l.* extorted from that city before the rebels left Edinburgh. Surely the people of Glasgow cannot say, that this money was demanded or extorted from them, on account of any thing they had then done in favour of the government; for it is not pretended, that they had so much as attempted to do any thing. They never attempted to do any thing till after the rebels had marched into England, from whence they had good reason to expect, that few or none of them would ever return; for as we were absolute masters of the sea, no man in his right senses could suppose it in the power of France or Spain to send any large body of troops for promoting or supporting a rebellion in England; and as little could it be supposed that 5 or 6,000 men, had they been the best troops that ever appeared in arms, would be sufficient for conquering England.

By what I have said, Sir, I do not mean to depreciate the real merit of the city of Glasgow in raising two regiments for the service of the government. All I mean is to shew, that in this respect Glasgow has no greater merit to plead than most of the counties and corporations in England; especially those in the North. In Northumberland, the gentlemen shewed a very warm zeal for the support of the government, and not only put themselves to great expence, but many of them were ready to take arms, and venture their lives, if there had been occasion; in the county which I have the honour to represent, the same zeal was manifested by all ranks of people; and in Yorkshire, I have been assured, that their contributions amounted to 30,000*l.* besides the expence of those gentlemen who formed themselves in a body, and actually joined his majesty's army; and, I must observe, that in all these counties, they manifested this zeal, when the Rebellion wore its most terrible aspect; when an army of rebels, flushed with the success of a victory, and with the reduction of the whole kingdom of Scotland, was daily expected among them; and when, from all accounts, they had reason to believe, that this rebellious army was daily encreasing. But in particular, Sir, I must not forget the town of Newcastle, the inhabitants of which behaved in the most prudent as well as zealous manner. That town, which was of so great importance, was quite open, when the Rebellion first broke out. The magistrates presently saw their danger, and resolved to provide against it with the utmost expedition. Luckily for them, they had then a brave and experienced officer among them, an officer whom I shall always esteem, and whose name I think I may mention upon this occasion; General Huske, Sir, had been sent by his majesty to take care of that town: by his directions the town was in a few days fortified in such a manner, that the rebels saw they could have no hopes of being able to reduce it, and this prevented their coming that way, which was perhaps the chief cause of the miscarriage of their whole design. These fortifications, Sir, and the other preparations for opposing the rebels, cost that town alone 7 or 8,000*l.* and they were obliged to borrow 5,000*l.* of the money, which the town has repaid, or must repay, with interest. Has not this town, Sir, some reason to apply to parliament for enabling them to discharge this debt?

I know of no corporation in Britain, where the magistrates do not find pretences for disposing yearly of the whole income of their estate. Very probably, the corporation of Newcastle does so, as well as that of Glasgow; consequently the one may plead their inability to discharge its debt as well as the other; and if the success or the effect of an expence has any superior merit, Newcastle has a better plea for relief than Glasgow; because the money expended by the former was of infinite service to the public, whereas the money expended by the latter, though that part which was voluntarily raised was with a good design, for which they ought to be applauded, yet it had no effect, nor was of any real service.

Then, Sir, as to the money or goods extorted, and the free-quarters exacted from Glasgow by the rebels, after their return from England, I do not question the truth of the facts, and am sorry to hear of that loyal city having been so great a sufferer. But was there no money extorted by the rebels? Did not they exact free-quarters in other parts of the kingdom? Can we suppose, that Carlisle has no demand upon this account? It is well known how much that city suffered; and if it were not known, as Carlisle was the first city or town that made any resistance, could it be supposed, that the rebels, who were so severe upon Glasgow, where they met with no resistance, would be so merciful to Carlisle, where they met with resistance, as to exact neither mo-



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ney nor free-quarters from the people of that city? It is true, we have as yet had no application for relief either from Carlisle, or any other place in the kingdom, except Glasgow; but if we give ear to this Petition, I make no doubt of our having next session a multitude of such applications from private gentlemen, as well as from corporate bodies.

We have therefore, Sir, great reason to be afraid of the consequence of our agreeing to the motion now made to us, as it will be a precedent for many other applications of the same nature; but this is not the only, much less the greatest danger we have to apprehend. Partial favours are of the most pernicious consequence to a government: Glasgow may think their merit or their sufferings singular, and that they deserve a particular regard from the public; but many other places will think in the same way of their merit and sufferings; and if they do not meet with the same regard, God knows what may be the consequence. It may occasion disaffection; it may even occasion a rebellion in this part of the United Kingdom, which will be of much more dangerous consequence than any that can be raised in Scotland.

For this reason, Sir, if we grant the desire of this Petition, we cannot in prudence refuse to comply with every application of the same nature that shall hereafter be made to us; and this, in my opinion, will likewise be of pernicious consequence; for if it be laid down as a principle, that all those who suffer by an invasion or insurrection, shall have their loss made good to them by the public, it will prevent the people of any part of the country where such a misfortune shall happen, from being so vigorous in their opposition as they would otherwise be. Men will naturally fight bravely for their property, when they know, that if they do not, it will be taken from them without any redress; but when they have ground to expect that the public will make good their loss, they will avoid the danger their lives may be exposed to by making a stout resistance, and either make none at all, or but a very faint one. Nay, it may even be an encouragement for people to contribute money towards the support of an invasion or insurrection, by pretending that they were forced to do so, for preventing their being plundered and massacred.

I therefore think, Sir, that by agreeing to this motion, we shall introduce a precedent, that may be in many respects of the most dangerous consequence; and when gentlemen talk of justice and compassion, they should think of the justice due to the real creditors of the public: they should think of the labourers and manufacturers, who are loaded with taxes for the payment of our public debts. In our present circumstances, Sir, I really look upon the nation in general to be a greater object of compassion than any particular member: at least, it is an object that deserves more the regard of parliament; and if we go on thus loading the public revenue with every expence that can be thought of, we shall never be able to pay our just debts, nor to relieve our starving poor from any of their taxes.

But, Sir, if gentlemen are of opinion, that the city of Glasgow particularly deserves, and ought to have some relief, why should not that relief be granted out of the produce of the estates forfeited by the last rebellion? When we have such a long list of attainders upon our records of parliament, so many convictions in the courts below, and so many persons excepted by name out of the late Act of Indemnity, surely, we must suppose, that the produce of those estates will be more than sufficient for satisfying a demand of 10,000*l.* with interest from the day it was made. Those estates are now vested in the crown, and may be disposed of as the crown pleases; can the produce of them be applied in a better or more just manner, than towards the relief of those who suffered, during the late rebellion, by their loyalty and attachment to their sovereign? Must the public be at all the expence, not only of defeating the late rebellion, but of making good all the damage thereby occasioned, and the crown reap all the benefit? Surely, this is neither just nor equitable; and therefore when I heard the relief of the petitioners so strongly urged by his majesty's Message, I was surprised to find, that the Message did not conclude with a promise or declaration, that whatever should be granted by parliament for that purpose, should be replaced from the first and readiest of the produce of the forfeited estates in Scotland. If this, Sir, had been the conclusion, I should have been more ready to comply with it; but without this I must give my negative to the motion.

Mr. *William Pitt*:

Sir, I shall not enter into a dispute

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with the hon. gentleman, whether there are not many places, that have an equal pretence to loyalty with the city of Glasgow, and that shewed as much zeal for the support of the government during the late rebellion as that city; but this I will aver, that there was no city, town, or place in Great Britain, that suffered so much, or that shewed the same zeal in the same circumstances. And without derogating from the merit of any one, I may say, that there are not many cities in the United Kingdom, that have so often, or so remarkably distinguished themselves in the cause of liberty. It was the whole tenor of this city's conduct from the time of the Reformation, that drew the resentment of the rebels upon it, and made them resolve upon the extravagant demand they at first made upon that city. If they had insisted upon their first demand, the city must have been ruined, because it would have been impossible for it to raise such a sum: of this they had the good fortune to convince the chiefs of the rebels; and even the rebels shewed that they had no inclination to ruin such a flourishing city, though the inhabitants appeared generally to be their enemies. Shall a British parliament, Sir, shew less regard to their friends, than the rebels shewed to their enemies? The rebels gave them 10,000*l.* that is to say, they passed from 10,000*l.* of their first demand, rather than ruin the city; and this I may the more justly call giving them 10,000*l.* because, if the rebels had plundered the city, they would have found more than three times the value of that sum among the inhabitants. If then the rebels gave that city 10,000*l.* rather than expose it to ruin, shall a British parliament refuse to give it 10,000*l.* to preserve it from ruin?

It really shocks me, Sir, to see such a question stand a debate in a British House of Commons. If the rebels had succeeded in their flagitious attempt, and had called a sham parliament, for they would never have called a free one, I should not have wondered to see such a question opposed in a House of Commons assembled by their authority; but it astonishes me to see such a question opposed in a House, where every member present professes his friendship for that city, and acknowledges the gratitude due to it from the public for its behaviour. The hon. gentleman told us, he did not intend to depreciate the real merit of Glasgow: I do not know what he intended; but he endeavoured to shew, that the behaviour of that city was not so meritorious as represented, because they attempted nothing in favour of the government, till after the rebels had marched into England, from whence they had reason to expect that none of them would ever return. This, Sir, was certainly an insinuation, that the people of Glasgow never did any thing in favour of the government, as long as they thought the government in any danger from the rebellion; and if this had really been the case, I should have had no great opinion of their merit. But I shall shew, that before the rebel army entered England, it was not in the power of the people of Glasgow to do any thing in favour of the government; and that they had not then the least reason to imagine, that the government was out of all danger from the Rebellion.

When we consider, Sir, that the rebels marched up through one half of England, without any opposition from the militia; that even in their retreat back again, though pursued by the Duke and the regular forces, they met with no obstruction from the militia; we cannot with any justice blame the south or west parts of Scotland, for not opposing them with their militia. And as to Glasgow, it had neither time to provide for its defence, nor was it capable of making a resistance, had it had time: the town is an open town, without so much as a wall round it, and the inhabitants had neither arms, ammunition, nor any sort of military discipline among them; so that it was impossible for them to think of opposing an army of Highlanders, who are, by the care of their chiefs, bred up to arms and military discipline from their infancy. Besides, they had no time for such an undertaking; for the rebels came upon them in a very few weeks after their first appearing in arms; and, till the Battle of Preston, every one had reason to believe, that general Cope, with the forces under his command, would have given a good account of them.

The case is very different, Sir, both with regard to Newcastle and Carlisle, because both of them had time to prepare for their defence; and both being surrounded with a wall, may, in a few days, be so fortified, as to be able to resist a flying party. Yet how little resistance did the latter make? For though they had many weeks to prepare for their defence, though they had hopes of being relieved in a few days by the army then assembled at Newcastle under marshal Wade, they gave up their

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city the very next day after they found the rebels were preparing for a general assault; and yet that city, or at least the castle, might certainly have held out much longer against the rebels, who had no battering cannon along with them: for a small party of the rebels held out the castle afterwards for some days against the Duke, and would probably have held it out longer, if they had not heard that some battering cannon were upon the road from Whitehaven, to be employed against them.

Now, Sir, as to the opinion the people of Glasgow might have of the safety of the government, or the event of the Rebellion, at the time the rebel army marched into England, they could not have such thoughts of either as the hon. gentleman was pleased to represent; for as to the small number of that army, the people in Scotland had from thence reason to fear, that the rebels were well assured of being joined by great numbers in England, or that there was treachery both in his majesty's councils and armies; for without some such well-grounded hopes, no one could suppose, that men of common sense would think of invading England with an army of 5 or 6,000 Highlanders. At the time of the Revolution, when it was at first said that the prince of Orange was to invade England with an army of 30,000 men, and many of the then king's friends seemed to be frightened at the news, a noble lord who was known to be a firm friend, seemed to make light of the news, and said, he apprehended no danger from such an army; but when it was afterwards reported, that the prince was to bring but 20,000, he began to be afraid, and when he heard that the prince was to come with 14,000 only, then cries he, "We are undone!" When they asked him the reason, why he was so much afraid of 14,000, when he seemed no way afraid of 30,000, he answered, "An army of 30,000 could not conquer England; but no man would come here with an army of 14,000, if he was not sure of finding a great many traitors amongst ourselves."

This, Sir, soon appeared to be a just way of thinking; and though the event shewed, that if the rebels had any such hopes, those hopes were very ill grounded; yet this the people of Glasgow could not foresee; therefore, from the small number of the rebel army, they had, according to the same way of thinking, rather cause to dread the event, than to suppose that none of that army would ever return: nor could they suppose this from the spirit that appeared in England in favour of the government; for though I am very well convinced, that this spirit was sincere and true, yet I am afraid, that if the rebel-leader could have persuaded his people to have ventured a battle against the Duke in Staffordshire, or to have given him the slip, marched towards London, and fought a battle near this city, the fate of England would have depended upon the issue of that battle; for if they had obtained a victory, and made themselves masters of London, I question much if the spirit of the populace would not have soon taken a very different turn.

I must therefore conclude, Sir, that when the rebel army marched to England, the people of Glasgow could form no judgment with any certainty, about the event of the Rebellion; and consequently that what they did afterwards, could proceed from nothing but their steady attachment to this government; and I must add, that their zeal was much the more meritorious, as it was manifested after they had severely smarted for it, in having such a large sum of money extorted from them by the rebels, merely on account of the zeal they had formerly shewn for supporting the liberties of their country. A burnt child, they say, dreads the fire; and if the people of Glasgow, after having smarted so sensibly for their loyalty, had resolved to lie quiet, and wait the event of things, their conduct would have been excusable: by holding such a conduct they would have been considerable gainers, even though we should grant the money now moved for. But they honestly and bravely resolved not to be idle spectators of the confusions of their country. They resolved to be active in putting a happy end to them as soon as possible; and with this view, as soon as they had an opportunity, they put themselves to a very great expence.

To say, Sir, that this expence was attended with no success or effect, is what no man can say with any certainty; for the regiment they raised and sent to Stirling, with two more, so effectually guarded that pass, that no reinforcement ever did march that way to the rebels; and the regiment they kept at home, very probably prevented any reinforcement being sent by the way of Glasgow. And though our army was unfortunate at the affair of Falkirk, yet if the Glasgow regiment had not been there, it might have been much more

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unfortunate, and the victory of the rebels more complete; for though that regiment was engaged in the action, it is evident, that it was not defeated and dispersed, because, if it had, the men would have run home, whereas it retreated in good order to Edinburgh, without the loss of a man, except those that were killed, wounded, or taken prisoners at the battle.

As to the behaviour of the northern counties, and that of Newcastle in particular, comparisons are odious, Sir, and I should have avoided making any, if I had not been forced to it by the hon. gentleman who spoke last. I shall readily acknowledge, and gratefully own the dutiful zeal of all those places for the support of his majesty's government; and I must likewise confess, that those who do not desire from the public any reimbursement of the expence they were at upon that occasion, have more merit than those that do; but at the same time I must observe, that before the rebels left Edinburgh, all those places were secured against any visit from them, not only by the strong town of Berwick, but by an army equal to that of the rebels encamped near Newcastle, and commanded by one of the best generals in the service; whereas the inhabitants of Glasgow shewed their zeal for his majesty, even when the rebels were masters of their country. And as to the expence, it must be acknowledged, that over and above the relief now prayed for, that city was either voluntarily, or by compulsion, at a much greater expence, in proportion, than any of the places mentioned; for, from what was said by the gentleman at your bar, it appears, that over and above the two fines extorted from them by the rebels, their expence amounted to above 8,000*l.* which is greater than what the town of Newcastle is said to have been put to; and is, I am sure, more in proportion for the single city of Glasgow alone, than 30,000*l.* is for the whole county of York. Besides, Sir, none of those places suffered any interruption in their trade or manufactures, whereas the trade and manufactures of Glasgow were at a full stop, almost during the whole time of the rebellion. To which I must add, that the expence of the former was voluntary, whereas a great part of the latter's expence was by compulsion, which makes a very great difference; for people may generously contribute to the assistance of the government, as all those places did, but they will never voluntarily contribute more than they can spare; whereas a people may be forced to contribute what would infallibly prove their ruin, should they meet with no retribution; which is the case now before us.

Then, Sir, as to the city of Carlisle, the rebels might perhaps raise the taxes there, as they did in many other places; but I cannot think they imposed any fine upon that city: I am rather inclined to think, they favoured it, because the people absolutely refused to support his majesty's commanding officer there in making a stout resistance, which was the cause of the city and castle's being so soon surrendered. I therefore think, we have no need to be afraid of an application for relief from any of those places; at least, I am sure, that if any such application should be made, it cannot be so well supported as the application now under our consideration; and consequently, our complying with this can be no precedent for our complying with any future.

But that of introducing a bad precedent, is not, it seems, Sir, the only danger we are to expose ourselves to by agreeing to this motion; we are besides threatened with the danger of exciting a rebellion in England. This, Sir, is so imaginary a danger, that I cannot think there is any one gentleman in this House that is really afraid of it. If there should be no future application of this kind, we can be in no such danger; because, no man can be disobliged at the parliament's not granting him relief, if he does not apply for it; and I have good reason to hope, that there will be no such future application. I hope all gentlemen and bodies politic in Great-Britain will follow the example of Glasgow, and desire no relief for what they voluntarily contributed towards the support of his majesty's government, nor for what they suffered by being obliged to give free-quarters to the rebels; and if we have no application upon either of these heads, I believe, we can have no application made to us upon any other. But suppose we should have some applications, we shall then have an opportunity to consider their merit; and if the circumstances of the petitioners should appear to be the same with those of the petitioners now before us, I do not question their meeting with the same success. If their circumstances should appear to be different, and not near so meritorious, we may refuse their petition with safety; because, however partial they may be in their own favour, the rest of the

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nation will judge impartially, and approve our refusal; and if the rest of the nation approve it, we can be in no danger of its exciting a rebellion in this part of the kingdom.

Another danger we are threatened with upon this occasion is, that if we agree to this motion, it will encourage people not to be active in defending themselves against any future invasion or insurrection, or perhaps, under the pretence of force, to contribute to its support. This I shall grant, Sir, might be the consequence of laying it down as a general principle, that all who suffer by an invasion or insurrection, shall have their loss made good by the public; and therefore it would be wrong to lay down such a general principle. But if the laying down such a principle would be wrong, surely it would be much more so, to lay the contrary down as an unalterable maxim of state. It would be unjust, as well as imprudent, to lay it down as a principle, that those who honestly and bravely risk their lives and fortunes in opposition to an invasion or insurrection, and have suffered severely on account of that opposition, should meet with no relief from the public, especially when their preservation or ruin depends upon that relief, which appears to be the case now before us. And if we consider this, we must allow, that if we think of the justice due to the public creditors, or of relieving our poor labourers and manufacturers, we must agree to this motion, because the public revenue will suffer a great deal more by the ruin of such a trading town as Glasgow, than it can suffer by granting the relief desired by the petitioners for preventing that ruin.

This relief, Sir, they cannot have from the produce of the forfeited estates in Scotland. It would be like prescribing a remedy to a sick man, which could not be got prepared till after his distemper had put an end to his life. It will be several years before any thing can be made of those estates; and in the mean time, Glasgow must be ruined with law charges, by their creditors suing for their money, which they will certainly do, if their interest be not regularly paid. This it is impossible for the corporation to do out of their present income, and at the same time support their necessary annual expence; therefore their ruin must be inevitable, or the relief now moved for must be granted.

The Earl of *Egmont*:

Sir; when I rise up to speak against the motion now under our consideration, I hope I shall not be reckoned one of that party, who, from disaffected views, may rejoice at the motion's being rejected. I never was suspected of having any such views: at least, I am sure, I never gave any just ground for such a suspicion. I oppose the granting of this money, Sir, upon a very different principle: I oppose it, because I am very certain, that whatever the Jacobites in Scotland, from their narrow views, may think, every wise Jacobite in this part of the United Kingdom will rejoice at its being granted; for, as there are many private gentlemen, as well as public societies, in England, who have as good a right as the city of Glasgow, to have their losses, or a part of their losses by the Rebellion, made good by the public, the consequence of such a grant may probably be a general discontent or disaffection in England. We may not, perhaps, be troubled with many of their applications, because, as matters stand at present, no man of sense will be at the trouble or expence of applying to parliament for any money, till he has previously engaged the ministers to be of his party; and it will be impossible for the ministers to comply with, or promise their countenance to every such application that may be made to them; which may raise, as I have said, a general disaffection in this part of the United Kingdom; for every gentleman, and every society, whose suit is refused, will think he had as good a right to relief as the city of Glasgow, and will of course complain; and we know how apt our countrymen are to adopt the complaints of one another, even sometimes when there is no just foundation for the complaint.

For this reason, I say, Sir, that there is not a sensible Jacobite in England that will not rejoice at this money being granted; because, the consequence must be, that it will either load the public with an expence it cannot support, or it will load our established government with a popular odium that may prove its overthrow. If then, every sensible Jacobite must have reason to rejoice at this money being granted, I am sure, every sensible and true friend to his majesty must have good reason to give his negative to the motion: and what should induce us to agree to a motion which may, I think,

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nay, certainly will, be of the most dangerous consequence to our present happy establishment, I cannot comprehend; for either the city of Glasgow deserves in a particular manner this relief, or it does not. If that city does not particularly deserve the relief proposed, surely it ought not to be granted; and if it does in a particular manner deserve such relief, I shall shew, that there are several other and less dangerous ways, by which a proper relief may be granted.

I must, indeed, think it strange, Sir, that Glasgow should never apply for any relief till the month of January or February last; and I must think it still more strange, that their application should be laid before parliament; for, if the case of that city be such as deserves compassion, the crown is provided with a proper and a sufficient fund for that purpose; and might have privately granted such a relief as compassion required, without exciting any other person or corporation to apply for the same. But to enquire more narrowly into the case, now it is brought before us; if any one be of opinion that Glasgow deserves the relief moved for, that opinion must be founded upon justice, compassion, or gratitude. As to justice, Sir, have not many other places as just a claim for relief as Glasgow? To mention only the town and neighbourhood of Derby: it is very well known, that many gentlemen in that town and neighbourhood, subscribed and contributed large sums of money for the support of the government soon after the Rebellion broke out: when the rebels came there, some treacherous Jacobite furnished them with a list of the subscribers, and they made every subscriber pay to them the money he had subscribed for the use of the government. Besides, Sir, if the people of Glasgow contributed more, or suffered more, than other places, they had stronger reasons for it than any other part of the kingdom; because they were more than any other interested in having the Rebellion defeated. All their riches flow from the Union: it was the Union that opened a trade for them to the West Indies, and to several other parts of the world, by which they have become a rich and flourishing people. Had the rebels succeeded, this source of riches would have been shut up from them, because every one knows, that the dissolution of the Union was the principle upon which the Rebellion was founded; and, I believe, the only principle which they openly and sincerely declared. If then Glasgow had stronger reasons for assisting in the disappointment of the Rebellion, than any other part of the kingdom, the less reason, and, consequently, the less justice have they to demand restitution from the public, either as to what they expended or suffered by that assistance.

There is really, Sir, so little justice in their case, that, in my opinion, justice lies wholly on the other side. The hon. gentleman who spoke last, acknowledged, that those who contributed or suffered during the Rebellion, and desired no relief from the public, had more merit than those that did: What are we then to do? we are to load those who are allowed to have the greatest merit, for relieving those who have the least; for of all others, those who first pave the way towards asking relief from the public, have certainly the least merit to plead with the public for granting that relief.

Now, Sir, with regard to compassion; can it be pretended, that the populous, the rich, and the flourishing city of Glasgow, has any claim to the compassion of the public? But the other day, we were told by a very sensible man at our bar, and a man of great experience in trade, that he believed the city of Glasgow would in a few years run away with the whole trade of England. Can the people of such a city have any claim to compassion? The corporation may, perhaps, be unable to discharge the debt it has contracted; but the citizens, the members of the corporation, are sufficiently able to pay off that debt, were it much larger than it is. Surely, if a corporation runs itself in debt for the benefit of its members, its most natural recourse is to its members. Let us therefore enable the magistrates, by act of parliament, to raise money upon the inhabitants for discharging this debt. This, I say, we ought to do, if there were no other way for enabling the corporation to discharge this debt; but the crown has now in its possession a fund for this purpose. The estates in Scotland, which have become forfeited by the late Rebellion, are now in the possession of the crown, and constitute the most proper fund for granting relief to the city of Glasgow. Some of those estates may, perhaps, lie in its neighbourhood, or not far distant: if a sufficient quantity of those estates should be granted to that city for enabling it to discharge the debt it has contracted, this would be a relief to the corporation, and

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an advantage to the public; because, if such an industrious people were in possession of those estates, they would soon improve them, by establishing manufactures and fisheries, in those wild places of Scotland, where nothing of the like nature was ever thought of; and this would not only increase the national stock, but would be the best method we could take for preventing any future rebellion in that country.

Thus, Sir, if it should be granted, that the corporation of Glasgow is from compassion intitled to relief, there is no occasion for loading the public revenue, already over-loaded, with that relief. The forfeited estates are certainly the most proper fund for the purpose; and if that fund should prove insufficient, the inhabitants of Glasgow are the only people that should be loaded with a debt contracted by their own corporation for their benefit. Why should the public take this load off of their shoulders? I have shewn, that the public is no way in justice, or from compassion, bound to do so. Let us next consider, if from gratitude the public be bound to do so. I shall grant, Sir, that we are all very much obliged to the people of Glasgow for their steady loyalty and zealous behaviour during the late Rebellion. But are we not equally obliged to many other places in Scotland, and to most part of England, upon the same account? and parts too, which had no particular interest in having the Rebellion defeated, which was, as I have shewn, very far from being the case of Glasgow. However, I shall always be for the public acknowledging its gratitude to Glasgow, as well as to every other part of the kingdom that gave proofs of their firm attachment to the government upon that occasion. But to acknowledge a debt of gratitude, and to pay it, are surely very different. I may acknowledge the debt, though I may never be able to pay it. This is the very case with regard to the public: we may acknowledge our gratitude; but it is impossible for the public to make good to every man what he contributed and suffered upon that occasion; and why we should do it to Glasgow, rather than any other, I can see no reason.

Upon the whole, Sir, I must conclude, that every private man in the kingdom, who suffered by the late Rebellion, is in justice as much entitled to relief from the public, as the people of Glasgow; in compassion, a great many are more, and in gratitude, they no more than others. But why gratitude should have so much weight in their case, and in other cases should never be once thought of, is what I cannot account for. A noble lord, who has as much family as well as personal merit to plead, as any corporation in the kingdom: a lord, whose family declared early in favour of the Revolution: a lord, whose family were active, and did great service to the government against the Rebellion in 1715: and a lord, who was himself very active against the last Rebellion, and whose people were, I may say, one of the chief causes of our victory at Culloden: this noble lord, I say, Sir, instead of meeting with any gratitude from the public, has been deprived of his seat in the other House, and turned out of a very lucrative post in the government, for no reason that was ever owned, though it is no way difficult to guess at it. A general, who at the head of one squadron of dragoons, bravely, and with success, attacked a whole body of the rebels, has met with the utmost ingratitude. A gentleman, who, as high-sheriff of his county, at the time of the Rebellion, had acted with great zeal in favour of the government, has been treated in much the same manner. In short, Sir, we must not talk of the gratitude of the public towards those who gave proofs of their loyalty during the Rebellion, for no one instance of it can be shewn, which did not appear to proceed from motives of a personal and private nature; and if there were no such motives in the case now before us, I believe we should not have been troubled with this Petition.

But supposing, Sir, that the case now before us is supported by no such motives; supposing, likewise, that the corporation of Glasgow were really in justice, compassion and gratitude, entitled to the relief moved for; and also supposing that no other method could be found for procuring them relief; yet, after all these suppositions, we cannot agree to the motion now made to us, because the affair has not regularly, and in a parliamentary manner, been brought before the House. The Petition should regularly have been referred either to a private committee, or to a committee of the whole House, and a proper day appointed for taking it into consideration, that those who thought themselves interested, might have had an opportunity to oppose it, and that we might have had an opportunity to have enquired, not only into the veracity of the facts, but into the circumstances of the people and corporation of Glasgow: if this



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method had been taken, I do not doubt of our having had several other Petitions of the same nature, from whence we might have judged with some certainty of the consequences: those who thought themselves interested against granting the relief prayed for, would have had an opportunity to be heard by themselves or counsel; and if the city of Glasgow had shewn, that they were either from justice, compassion, or gratitude, more particularly entitled to relief than any other, the committee would, without doubt, have come to such a resolution as is now proposed, in case no other method could have been pointed out for giving them relief. The resolution of that committee, if agreed to by the House upon the report, would have been referred to the Committee of Supply, where we should again have had an opportunity to have considered the question. Thus we should have proceeded deliberately with our eyes open, and with a thorough knowledge of what we were about; but in the manner now proposed, we are proceeding rashly and in the dark, and are going to determine without hearing but one side of the question. Nay, for what we know at present, we are going to load the poor for the sake of relieving the rich. This, I shall grant, is no new thing with us. We did so but last year, when we continued the tax upon coals, so necessary for the support of the poor, for the sake of relieving the rich and opulent city of London. But I shall never cease opposing such destructive and uncharitable methods, however unsuccessful I may be in any such opposition; and when I see the rules of parliament broke through, in order to get such methods established with the greater ease, I cannot help being warm in my opposition. This, Sir, I greatly suspect to be the case with regard to the motion now under consideration; and therefore I must conclude with moving, That the chairman do leave the chair.

Mr. *Pelham:*

Sir; the noble lord's objection to our method of proceeding seems to be a little too late; for, in my opinion, it ought to have been started when the motion was made for referring the Glasgow Petition to this committee, or, at least, before the committee had been at the trouble to examine any witness for proving the facts set forth in the Petition. Whether its being neglected at both these times, proceeded from an oversight, or from a supposition that the facts could not have been so distinctly and so incontestably proved, I shall not pretend to determine; but now it is made, I shall beg leave to shew, that it ought to have no weight. I do not remember whether the noble lord was present when it was moved to refer this Petition to the Committee of Supply: but if he was, he certainly heard the reasons which the hon. gentleman gave for the motion he made; and they were such reasons as no one attempted at that time to answer or refute. When a petition contains a great many facts of a dubious nature, so that a multitude of witnesses must be examined, and a long scrutiny made, before the truth of those facts can be established, it becomes necessary to refer that petition to a particular committee; but when a petition contains no facts but such as are notoriously known, when no one fact is doubted, nor the examination of any one witness necessary, unless it be for form's sake, to what purpose would you refer such a petition to a particular committee? I must appeal to gentlemen, if it would not appear ridiculous to see upon our Journals or votes, a formal order for referring a petition to the consideration of a committee, and that they do examine the matter thereof, and report the same, as it shall appear to them, to the House; and impowering that committee to send for persons, papers and records: I say, would not such an order appear ridiculous, when the petition contained no one allegation that could be doubted of by any man in the kingdom?

Another reason, Sir, for referring a petition to a particular committee, is, when some other particular person or body politic may possibly be injured by what may be done by consequence of that petition. Can any such thing be suggested or supposed with regard to this petition? The whole nation has indeed a concern in all grants of public money; but no particular man, or body of men, can have a right to oppose any such grant, much less to be heard by themselves or counsel against it. This House, and this House alone, has the right to determine what money shall be raised, and how that money is to be applied. No man, nor body of men, could be particularly injured, or have a particular concern in any thing that was to be done in consequence of this Petition; and therefore no reason could be assigned for our giving ourselves the trouble to refer it to a particular committee, or to any other

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committee but that to which it is referred. The facts, if they had not been notorious, have been as fully proved as they could have been before a particular committee; and if any other person or body corporate of this kingdom has a claim of the same nature, and a claim equally supported, they may apply by petition; but I am not at all afraid of a multitude of such applications, or of a load being thereby brought upon the public, which it is not able to support, because I am fully convinced, that no such claim can be equally supported: on the contrary, I believe, that the modesty of this claim, and the opposition that has been made to it, will be an effectual bar to any future claim of the same nature.

I shall grant, Sir, that in time of wars and rebellions, every part, and every person in the kingdom, must submit to the fate of war, and bear the particular losses or expences thereby occasioned. This I shall admit to be a general rule; but still, from this rule there must be at all times some exceptions, especially when they are such as are founded not only upon common justice, but upon gratitude and compassion, which I shall shew to be the case now contended for. That every man, or society, that suffers by, or is at an expence in defeating a rebellion, should have their loss or expence made good by the public has been allowed to be common justice; but when that loss or expence is not very extraordinary, or more than the person or society can bear, common justice must give way to common good, and every person or society is left to bear the loss or expence he has been put to. Whereas, when the loss or expence is very extraordinary, or more than the person or society can bear, some part of it at least ought to be made good by the public; because common justice may be so far answered, without encroaching upon common good, or subjecting the public to innumerable demands.

Now, Sir, it will, I believe, be granted, that both the loss and the expence of the city of Glasgow were very extraordinary, and much more in proportion than any other part of the kingdom suffered, or was put to; therefore they are not only in common justice intitled to have some part of their loss, at least, made good by the public, but with respect to them common justice cannot interfere with common good; and to pretend that the people of that city were more than any other interested in defeating the rebellion, is a pretence founded upon a very fallacious supposition. The dissolution of the Union was, I know, one of the principles on which the rebellion was founded; but, had the rebellion succeeded, and the Union been dissolved, will any man suppose, that Glasgow, or any other city in Scotland, would have been excluded from the benefit of a free trade to our plantations in America? Do not we know, that the people of Scotland before the Union, always insisted, that the trade to his majesty's colonies should be open to all his majesty's subjects, especially as all those colonies had been settled since the Union of the crowns, and very much improved by people's going thither from Scotland as well as England? If the Rebellion had succeeded, can we think that an English parliament, chosen by the Pretender's influence, would not have confirmed and established this principle? And therefore we cannot suppose, that the trade of the city of Glasgow would have suffered by the success of the Rebellion: on the contrary, it might perhaps have been improved; because our East-India Company would probably have been dissolved; and thereby that city might perhaps have got a free trade to the East, as well as the West-Indies: consequently we must conclude, that with regard to the continuance or improvement of their trade, the people of Glasgow were more interested in the success than in the defeat of the Rebellion; and that they were induced to act contrary to their interest, by a laudable zeal for the religion and liberties of their country, and a steady attachment to the illustrious family now upon our throne; which, according to the noble lord's own principle, must add greatly to the justice and merit of their cause.

I hope, Sir, I have now fully established not only the justice of the city of Glasgow's claim, but that this justice is not incompatible with the public good; and that it should be complied with out of compassion the witness at your bar has fully proved; for he has shewn, that the city must be ruined, if the relief now proposed be not granted. The noble lord says, this relief may be raised by act of parliament upon the inhabitants, for whose sake the debt was contracted. This, instead of compassion, would be cruelty: it would be adding affliction to the afflicted. The inhabitants of that city have already suffered greatly by the interruption of their trade,



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by the rebel army's living upon them at free-quarters for so many days, and by several other accidents occasioned by the rebellion; and would you add to these losses a new and a heavy tax for replacing that money which was extorted by the rebels from that city, on account of the loyalty of its magistrates and people towards their rightful sovereign? This, I am sure, would not be acting towards a corporation in Scotland, with the same compassion you acted some years since towards a corporation in England. When I say this, every gentleman will suppose, I mean the South-Sea Company. By their scheme in the year 1720, they stood indebted to the public in more than the sum of 7 millions sterling; every shilling of which was afterwards given up to them out of compassion, when their scheme was defeated, and great misfortunes thereby brought upon the nation as well as themselves. Will you then refuse to grant 7,000*l.* out of compassion to the city of Glasgow, when from this single motive you so lately granted 7 millions to the South-Sea Company? I say, 7,000*l.* because the magistrates of that city saved the public 3,000*l.* when by their address they prevented the rebels from levying the land-tax. With respect to the South-Sea Company, it might have been said, that the 7 millions due by that Company to the public, might be raised by a tax upon the proprietors, who were certainly much richer than the inhabitants of Glasgow; and, I am sure, much less deserving the compassion of the public; for the proprietors of the South-Sea stock had, by their own conduct, drawn that misfortune upon themselves as well as their country; whereas the rebellion was so far from being occasioned by the conduct of the inhabitants of Glasgow, that they had always endeavoured, as much as they could, to prevent any such misfortune.

In short, Sir, the public has often granted, and must often grant, relief to such as become objects of compassion. If a general-receiver for any county should be robbed of a large sum of the public money, every one knows, that he and his securities would by law be obliged to make it good to the public; but if he could be accused of no fault or neglect, would it not be cruel to ruin him and his family, and perhaps his securities too, rather than resolve to make it good out of the next supplies granted by parliament? I shall admit, that in our present circumstances, we must be more cautious of doing acts of charity and compassion than there would be occasion for, if no part of the public revenue were mortgaged for debts formerly contracted; but without any new tax, we have now a fund for discharging a part of that debt yearly, and that fund will, I hope, in a very little time, be vastly increased; consequently, the public is far from being in such unhappy circumstances as the corporation of Glasgow was reduced to by the last rebellion; and it is not to be supposed, that his majesty can grant that corporation any relief out of his civil list. The necessary demands upon that revenue are so great, that his majesty has not, in proportion to his rank and dignity, near so much to spare for acts of generosity and charity, as many noble and rich commoners in this kingdom. Besides, do gentlemen imagine, that the civil list did not suffer by the late rebellion? Do not we know, that many of the branches of that revenue were very much interrupted; and moreover, that it was put to a very great expence in carrying on the necessary trials, and many other incidental charges brought upon it by the rebellion? I do take upon me to aver, that the civil list revenue has for some years been managed with the utmost œconomy. Of this I am so confident, that I should no way dread the most strict enquiry: whatever might be the consequence thereof, I should at least be satisfied in my own conscience, that I had done my duty. Nay, if I had advised granting this very article, I should not have thought that I had exceeded my duty, provided it could have been spared from other and more necessary services; though in such a case, I am very sure, that it would have been made a matter of clamour by all those who oppose this motion. But as such a sum could not be spared from the civil list, and as I think it due, in compassion as well as justice, to the city of Glasgow, I shall therefore be for its being granted by the public.

Sir, I think the sum moved for due to that city, not only in justice and compassion, but also in gratitude for their general behaviour ever since the Revolution, and in particular, for their behaviour during the late rebellion, which is the more meritorious, as they were more exposed to the fury of the rebels, and more subject to be influenced by disaffected principles, by being situated in a country where the rebels were for some time absolute masters, and where such principles have always

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been more openly avowed than any where in England. When I consider this, Sir, I am really surprized to hear any gentleman, that opposes this motion, talk of the ingratitude of the government towards any one who manifested his loyalty upon the late occasion. I know of no such ingratitude; for as to posts and employments in the government's service, the crown is the only judge who are the most deserving, and may have good reasons for conferring as well as depriving gentlemen of such, though those reasons are not always such as either can, or ought to be made public, which the noble lord will soon become sensible of, should he ever have the honour to be a servant to the crown. A private person who served the crown during the late rebellion, may have forfeited all claim to gratitude, by his behaviour since that time, or he may have been before rewarded for all the service he did, or could do upon that occasion, by a long enjoyment of lucrative posts in the service of the government; but neither of these can properly be said of a corporation; and I am sure, no such thing can be alleged with respect to the city of Glasgow; consequently, their claim to the gratitude of the public must remain unimpeached, and can be satisfied no other way than by the method now proposed.

I say, Sir, no other method than that now proposed; for, as to the forfeited estates in Scotland, they cannot be proposed as a fund for the satisfaction of this or any other claim of the same nature; because a survey of them has been made, and the claims already entered against them, calculated, whereby it appears, that the value of the latter exceeds by a great deal the value of the former. These claims must all be examined, and determined according to the laws and methods of proceeding in the courts of Scotland; and many of them may, probably, at last be determined by appeal in the other House, which must take up a great number of years; for, till all the claims upon any one of the estates be determined, it can neither be sold, nor can the rents and profits be applied to the use either of the crown or the public; because the whole must till then remain sequestered; therefore they cannot answer any present demand upon the crown or public; and cannot at last answer any such demand, unless many of the claims should be found insufficient, and rejected.—Upon the whole, Sir, we must conclude, that the city of Glasgow has a claim well founded in justice, in gratitude, and in compassion, for at least the sum now moved for; that there is no other way for satisfying this claim; and that, from the particular circumstances of their case, it can be no precedent for any great demand upon the public; therefore, I hope, the motion will be unanimously agreed to.

The Committee hereupon came to a Resolution to grant the money; but upon the Report, the following debate ensued:

Mr. *Robert Nugent:*

Sir; it is an old proverb, and a true one, that it is never too late to do well: if this Petition was precipitately referred to the Committee of Supply, it is not yet too late to rectify that mistake by the chairman's now leaving the chair; and when the House is resumed, we may discharge the former order, and then order the Petition to be referred to a particular committee, which cannot, I think, imply any absurdity; for, however well known the facts set forth in the Petition may be to the hon. gentleman that spoke last, they are not publicly and notoriously known; and as to the principal fact upon which our Resolution ought to depend, it cannot be known to any gentleman of this House, without a particular enquiry: I mean, Sir, the present state of the revenue, and necessary annual expence of the city or corporation of Glasgow; for, till this be particularly known, no argument can be drawn from compassion in favour of this motion; and all arguments drawn from justice and gratitude will operate as strongly in favour of every one of his majesty's loyal subjects, who suffered by the Rebellion, as in favour of the corporation of Glasgow. Therefore, in the method we are in, compassion must be laid entirely aside; and if we grant this sum as justly due to the corporation of Glasgow by the public, or as a reward for the service they did during the Rebellion, we shall lay a precedent for more demands of the same kind than the public can possibly answer.

Besides the enquiry I have mentioned, Sir, there is another fact which we ought to enquire particularly into, and that is the conduct of the magistrates of Glasgow with respect to the demands made upon them by the rebels. I am far from supposing, but for any parliamentary knowledge we have, I may suppose, that the magistrates, or some of them, secretly encouraged the rebels to make these demands; and if any

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thing of this kind should appear, there would be no occasion to load the public with making good the loss to the corporation, any further than the estates of such magistrates should not be sufficient to answer. This was the method taken by parliament in the year 1720–21, with regard to the South Sea Company; for, before it was resolved to grant any relief to the company, a very strict scrutiny was made into the conduct of the directors, and into the value of their estates, most part of which was appropriated to make good the loss of the company, before any relief was granted by the public; and as to the relief that was afterwards granted the company, by discharging them from what they had obliged themselves to pay the public, I must think it was a relief which the public ought not to have granted; and therefore a precedent that ought never to be followed.

Then, Sir, with regard to a receiver's being robbed of the public money; perhaps, the parliament might be induced, out of compassion, to make good that loss, rather than ruin him, and those who were security for him; but I cannot think, that any parliament would or ought to do this in a committee of supply, without some previous enquiry into the circumstances as well as the conduct of such receiver. After a particular enquiry indeed, and a parliamentary conviction, that the conduct of such receiver was altogether blameless, and that he would be entirely ruined by obliging him to make good that loss, there might be room for parliamentary compassion; but, whatever the parliament might be induced to do in such a case, it could be no argument for what is now proposed, even supposing we had been by a previous enquiry convinced, that the conduct of the magistrates of Glasgow was blameless, and that the corporation was unable to discharge this debt; because I am confident, the inhabitants of Glasgow would raise twice this sum, rather than have their corporation dissolved; and, as they are sufficiently able to do so, notwithstanding what they suffered by the Rebellion, there can be no room for parliamentary compassion,

To conclude, Sir, if this motion be agreed to, I must look upon the nation to be in the condition of a husband, against whom his wife has commenced a process of divorce. We must not only pay our own costs in the law suit, but we must also pay those of our antagonist; and as I do not think that any husband should be subjected to this, till it appears by the event of the suit that he is guilty of what he is charged with, I cannot agree to this motion; because, I believe, it will not be said by the advocates for this motion, that the public was any way to blame.

Mr. *James Oswald:*

Sir; I am very unwilling to accuse gentlemen of want of candour, but, I believe, every one who has given attention to this debate, is convinced, that those who insist upon our altering our method of proceeding in this affair, really intend thereby to defeat the prayer of this Petition at least for this session; because it would be impossible for us to enter upon and complete the enquiry they propose, during the time we can suppose this session to continue; and, if the Petition should be defeated for this session, I doubt much if Glasgow, or any other of his majesty's loyal subjects, would ever hereafter apply to parliament for relief, upon the head of their suffering by their loyalty during the late Rebellion. Therefore I must think, that the fate of this, and all such petitions, depends upon the issue of this debate; and that we are now to determine, whether this day shall be an anniversary of rejoicing or mourning to all the Jacobites in the United Kingdom; for they will certainly rejoice at the parliament's shewing a disregard to those, who upon the late occasion shewed themselves firm friends to his majesty; and they will have cause to mourn, if all such as shall behave in the same manner upon any future occasion, be now encouraged to expect the countenance, not only of his majesty, but his parliament, in any just demand they may hereafter have upon a like account.

I say, just demand, Sir, because I think the demand now under consideration is so strongly founded in justice, that it stands in need of no other support, though it must be acknowledged, that something is due in gratitude; but if this demand rested upon no other foundation, I should be against complying with it, because I am against all pecuniary rewards: they encourage and propagate a mercenary spirit among the people; and therefore, I think, we have already too many such. But the people of Glasgow ask no such reward: they ask no reward for the services they performed: they ask no reimbursement of what they voluntarily contributed; they ask no indemnification as to what they

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suffered by the common fate of war: they ask an indemnification only as to what they suffered extraordinary, and merely upon account of their loyalty: for though some gentlemen seem now to think, that neither their loyalty nor their services were extraordinary, it is plain the rebels thought otherwise; and this made them treat that city more severely than they did any other; particularly as to the two mulcts or fines imposed upon them. As to these only, they desire an indemnification; and with this modest demand the public is in justice, I think, bound to comply, not upon the general principle of the public's being obliged, as far as possible, to make good every private person's loss by a war, but because this loss was very extraordinary, and occasioned by that city's fidelity to the established government.

If then, Sir, this demand ought to be complied with upon the principle of justice alone, how strongly must it be recommended by compassion, when we consider the present circumstances of the estate belonging to the corporation of Glasgow? But it is said, that in order to excite our compassion, we should have had a previous enquiry into the circumstances of that estate, and into the conduct of the magistrates. For God's sake! Sir, how would you have enquired into the circumstances of that estate? Could you have had a better account of its circumstances, than from one who has been the chief magistrate for several years? If any gentleman had suggested the least diffidence or suspicion of his evidence, you might, even before this committee, have had his evidence confirmed by other witnesses. But it was so candid and so distinct, that I believe most gentlemen are convinced, he spoke nothing but the truth. As to this fact, therefore, you could not, before a particular committee, have had a fuller or a better evidence than you have now before you; and as to the conduct of the magistrates of Glasgow during the Rebellion, I have often heard, that common fame was a sufficient ground for inducing this House to enquire into a man's conduct; but I always thought, that it was common bad fame. I never supposed, that universal applause could give this House any ground for an enquiry. This is the case with regard to the magistrates of Glasgow; their conduct, during the Rebellion, has been, and is still applauded by all true friends to the government. I believe no gentleman will say he ever heard the least suggestion, that they, or any of them, held the least secret correspondence with the rebels; or that they did not do all that was in their power for defeating the Rebellion. It would, therefore, have been contrary to all the rules of parliament, to have appointed any particular committee for enquiring into their conduct; and as to all the other facts set forth in the Petition, besides their being notoriously known, you have now before you an evidence, as full and unquestionable as you could have had before any such committee.

There cannot therefore be any solid objection against our method of proceeding in this affair; nor can any argument be from thence drawn for the chairman's leaving the chair; consequently, that motion can be agreed to upon no other foundation but that of rejecting the Petition, which would certainly be the cause of terrible effects, in case of any future invasion or rebellion. And as to the effects of granting relief in the present case, and refusing it in any other case of the same nature, we can have no occasion to be afraid of them; because, if there be any other case of the same nature; if there be any other city or town in Great Britain that can shew, that its inhabitants contributed largely towards the service of the government during the late Rebellion; that many of them ventured, and some of them lost their lives in that service; that they suffered severely by the rebels living among them at free-quarters; that a large sum of money was extorted by the rebels from the corporation on account of its loyalty; and, that the corporation has thereby incurred a debt, which it is no way able to pay: I say, if there be any city or town that can shew all these circumstances, I am convinced, the parliament would readily agree to pay a debt so contracted, and might do so without danger of loading the public with any great demand; and if they could not shew these to be their circumstances, their case could not be of the same nature, nor could they with any justice complain, should the parliament refuse to grant them relief.

With regard therefore to cities, towns, or corporations, our granting the relief, now proposed, can occasion no discontent, much less any disaffection; and with regard to private gentlemen, if any of them have suffered, or have had any money extorted from them, the government has it

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always in its power to grant them a recompence, by conferring upon them some of the many lucrative employments we have in the executive part of our government. Thus, Sir, it is evident, that our agreeing to grant the city of Glasgow the sum now moved for, can be attended with no danger; whereas, our rejecting the Petition, even in the soft method of the chairman's leaving the chair, may be attended with most fatal effects; and, as I think that the sum sued for is really in justice due from the public to that city, I shall most heartily concur with my honourable friend in his motion.

Mr. *Henry Bathurst:*

Sir; that the hon. gentleman, who spoke last, may not accuse me of want of candour, I shall declare, that I am for the chairman's leaving the chair, not only because I think we have not proceeded in a parliamentary method towards granting the sum of money moved for, but also because I think no sum of money should be granted by parliament upon such a consideration, either to the city of Glasgow, or to any other person or body politic in the kingdom. As to the method of proceeding, Sir, I do not consider, whether we could have had a better or fuller evidence before a particular committee; nor do I consider, what we might before such a committee have enquired into: I consider only the rules of parliament, which never ought to be broke through without an absolute necessity: and it must be allowed, that according to those rules, the city of Glasgow's Petition ought first to have been referred to a particular committee, and the resolution of that committee, if in favour of the Petition, would of course have been referred to the Committee of Supply. This was certainly the method in which we ought to have proceeded, according to the rules of parliament; and I have not heard one reason offered for our breaking through those rules in the case now before us; nor can I see any danger in our recurring to the observance of those rules; for the petitioners are certainly prepared to prove every fact set forth in their Petition; and if they are, we may still proceed in a regular method to grant this money before the end of this session; for, if it be granted, I hope it will be granted by a particular Bill for the purpose, otherwise we shall deprive the other House of the negative they claim with respect to Money-Bills; because, if this clause should appear no where but in the general clause of appropriation, usually annexed to some Money-Bill of great consequence, which I suspect to be the design at present, the other House must consent to this grant, or the Money-Bill, to which the appropriation clause is annexed, must be lost. This they may look on as a designed imposition; and this may induce them to reject this grant, even though they would otherwise have approved of it; therefore, if I were really a friend to the Petition, I should be for altering the method we now seem to be in, and proceeding first by a particular committee, and then by a particular Bill for this purpose.

But now, Sir, I shall give you my reasons why I am no friend to the Petition; first, because I think no money ought to be granted upon such an account; and, in the next place, because if any money were to be granted, it ought not to be granted in the way now proposed. As to the first of these reasons, it has always been an established maxim, not only in this country, but all over Europe, that in time of war, the people of the country where it happens to be seated, or where the weight of it falls, must submit to their fate, without any hopes of having their losses made good, in whole or in part, by the other dominions subject to the same sovereign. Accordingly, we find, that in queen Elizabeth's time, when the Spaniards landed in the West, and burnt Penzance and some other places, no compensation was made by the public for the loss sustained by the inhabitants. And again, in king William's time, when the French landed in Devonshire, and burnt Tingmouth, with all the ships in the harbour, no application was ever made to parliament, nor any relief so much as asked for the sufferers upon that occasion. This maxim has therefore been always observed in this country, as well as other parts of Europe; and it deserves to be so, because it makes the people bold and alert in opposing the entrance of an enemy into the country; whereas the contrary maxim would of course have a different effect. And as there was no body of foreign troops landed during the late Rebellion, I must be of opinion, that those who did suffer, are so far from deserving any relief from the public, that they deserved what they met with, because they did not defend themselves; for as the friends of the government are in most parts of the king-

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dom much more numerous than its enemies, they might certainly defend themselves, if they would take care to be properly provided and qualified for that purpose; and if they are negligent in this respect, they ought not to be encouraged to expect any relief from the public, for the loss they may sustain through their own negligence or cowardice.

Upon this general maxim, therefore, I must be of opinion, that no money ought to be granted either to the town of Glasgow, or to any other place, for making good what they suffered by the Rebellion; but as to Glasgow, Sir, I have particular reasons why I think no money ought to be granted for making good any part of their loss. Gentlemen may magnify as much as they please, the contributions of the inhabitants of that city for raising and subsisting their two regiments, or their loss by furnishing the rebels with free-quarters; but if we consider the cheapness of provisions in that country, we must think their loss a little exaggerated; and if we consider what a flourishing trade they have enjoyed for many years, we must conclude that, if they had been as generous in their contributions as many places in England, the corporation would have had no occasion to run in debt, or to apply to parliament for relief.

As to the debt contracted by the corporation, Sir, I am really supprized how they came to contract such a debt, when it would have been so easy to have raised among the inhabitants the whole of what was demanded by the rebels. If the corporation had absolutely refused to raise the money, can we suppose, that the inhabitants would not have raised it by a general contribution, rather than expose themselves to be plundered? This, I think, is not in the least to be questioned; and therefore I must suppose, that the magistrates had then such an application as this in view, and raised the money upon the credit of the corporation, with a design to seek relief from parliament, as soon as they could find a favourable opportunity; which relief they foresaw could never have been applied for, had the money been raised by a contribution among, or rather a tax upon, the inhabitants according to their respective circumstances.

If the corporation was at that time so poor as is now represented, the magistrates must have had some such thing in view; for if the whole revenue of the corporation be barely sufficient to defray its annual expence, they could not propose to discharge the debt so contracted, without a grant of an equal sum of money from the crown or the public, or an act of parliament empowering them to raise it upon the inhabitants; and if they had any thoughts of this last expedient, they acted very imprudently; because they should rather have chose, that the inhabitants should then be taxed by the rebels for raising this sum of money, than that they should afterwards be taxed by parliament for raising it. Nay, if they were such friends to the government as they pretend, they should have made it necessary for the rebels to tax the inhabitants, in order to raise the money demanded, because it would have left a bad impression of them in the minds of all those that had been obliged to contribute towards that tax. This, I say, they should have done, if they had acted prudently; for they have now perhaps made it necessary for the parliament to enable them to raise money by a tax upon the inhabitants for discharging this debt; which brings me to the other reason for my being no friend to this Petition, or at least to the motion now made to us; because, if it be necessary to grant money for relieving the city of Glasgow from this debt, I think this the very worst and most imprudent way we can chuse for granting it.

The produce of the forfeited estates, is certainly, Sir, the most proper fund for this purpose; and whether that fund may be sufficient or no, is a question that we ought not to take upon the word of any minister; therefore the question now before us ought to be deferred until we have made an enquiry into the probable amount of that produce, by ordering a survey of the forfeited estates, and an account of the claims entered against them, to be laid before us the beginning of the next session of parliament. But, suppose this fund should evidently appear to be insufficient, the next most proper fund is surely the civil list revenue, which, if managed with œconomy, must be sufficient for the purpose, because it now exceeds what it was in the late king's time, with all the additional grants that were then made to it; for the million granted to the civil list in the late king's reign, and the 300,000*l.* paid to it by the two insurance companies, made it up but 800,000*l.* yearly during that reign; whereas, I am convinced, it now exceeds 800,000*l.* yearly, notwithstanding the account of deficiences lately



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laid before, and made good by, parliament; for as no enquiry was made either into that account, or into the produce of that fund in former years, it can afford me no reason for supposing, that the civil list revenue has not exceeded 800,000*l.* one year with another, ever since it was settled upon his present majesty; and I must think it hard to oblige the public to make good the deficiency, without allowing it the benefit of any former surplus: that is to say, if the civil-list revenue should for many years produce a million annually, and for a few years afterwards, during a heavy war, should produce but 750,000*l.* I think it is hard to oblige the public to make good the deficiency of 50,000*l.* yearly, without allowing it any benefit by the 200,000*l.* yearly surplus above the sum for which that fund was first granted.

Surely, Sir, when the civil-list revenue was first made distinct from the other branches of the public service, and when a greater revenue was settled upon his majesty than had ever been granted to any of his predecessors, a due regard was had to those acts of charity or generosity which the dignity of the crown might require, and among such acts, none can be more deserving than a generous recompence to those who have suffered by their loyalty. Therefore, if Glasgow has any title to relief, that relief ought to come from the civil list revenue; and if that revenue cannot spare to grant this relief, it must proceed from bad œconomy; the hon. gentleman who has now the management of this revenue under his care, has thrown down the gauntlet, and seems to dare any man to take it up: perhaps it may be taken up when he least expects it; but let it be taken up when it will, the demand now made upon the public, for what ought to have been satisfied out of the civil list, will be an article against him. That revenue may now, perhaps, be managed with more œconomy than in the late king's time, when, by an account which was by chance laid before parliament, it appeared, that in four years time no less than two millions had been employed in secret service. If any thing near this sum be now so employed, I do not wonder at his majesty's not having so much to spare for acts of charity and generosity, as many noblemen and rich commoners in the kingdom. But notwithstanding the war, I cannot suppose, there is now near that sum so employed: at least I cannot suppose, that it has been employed in procuring secret intelligence, or if it has, that it has been very ill applied; for, through the whole course of the war it appeared, that we had no foreign intelligence but what was communicated by the foreign gazettes, and the young Pretender was landed in Scotland before our ministers knew any thing of his design, or of his embarkation. With regard to this sort of secret service I must therefore suppose, that great œconomy has been of late made use of; but there is another sort of secret service, which I shall not name at present, and in this I must suppose, that our ministers have been a little extravagant, otherwise the crown might easily have spared a sum sufficient for giving the relief now proposed to the city of Glasgow.

For this sort of extravagance, Sir, the hon. gentleman may perhaps answer to his own conscience, for the consciences of ministers have in all ages been very easily satisfied; but if there has been any such, and an impartial enquiry should be set on foot, I am sure he could not answer for it to parliament. As I do not think it proper at present to propose any such enquiry, I must therefore take for granted what the hon. gentleman has been pleased to assert, that it is impossible for his majesty to give relief to the city of Glasgow out of the civil-list revenue; but supposing this likewise to be true, we have still another method for procuring relief to the corporation of Glasgow, without adding a new load upon the public revenue of the nation; and that is, by enabling the magistrates to raise upon the inhabitants that money which was borrowed to prevent their being plundered; for though it would have been of more service to the government, to have forced the rebels themselves to have raised this money by a tax upon the inhabitants, yet such a tax, though imposed by the authority of parliament, will still be of service, because the inhabitants will reflect upon the original cause of the tax, and this will confirm them in their hatred of the late Rebellion, and their abhorrence of those principles which were the occasion of it.

By this method, Sir, we shall do a singular piece of service to the government, and we shall procure a sufficient relief for the corporation of Glasgow, without doing injustice to, or raising discontents in, any other part of the nation; but as this method cannot be resolved on, or any step made towards it, in a Committee of Sup-

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ply, I shall therefore conclude with seconding the motion made by the noble lord upon the floor, That the chairman do now leave the chair.

Mr. *William Grant* (Lord-Advocate of Scotland):

Sir; I am surprised to hear the objection to our method of proceeding in this affair so much insisted on. Have gentlemen so soon forgot what was done but the very last session, in relation to the petitions from our northern colonies, praying for a reimbursement of the expence they had been at in taking and securing the island of Cape-Breton? Those petitions were, it is true, at first ordered to lie upon the table, but they were soon after referred directly to the Committee of Supply, where the sums respectively due to them were voted, and no farther notice was taken of them in any of our proceedings, till they were appropriated to the respective colonies in the appropriation clauses inserted in the Sinking-Fund Bill, which passed the other House without any difficulty or objection. When we granted such a large sum in the Committee of Supply, without any previous reference to a particular Committee, or any previous parliamentary enquiry into accounts that were so intricate, is it possible to assign a reason why we should not in the same way grant such a small sum as this now moved for, and upon an account which consists but of three plain articles, no one of which can be contested or doubted? Is it possible for a gentleman of the most luxuriant fancy to suggest a reason, why the other House should think themselves imposed on by the method now proposed, when they made last year no objection to the same method pursued in an affair of much greater consequence?

I must therefore suppose, Sir, that gentlemen made use of this objection, because they were conscious of the weakness of all the other objections they could invent against the motion now made to us; and I am the more convinced of this, the more I consider the objections that have been made; for they are chiefly founded upon a position laid down as general, though it was never admitted to be such either in theory or practice; or upon a supposition that there are several places in the kingdom whose case is exactly parallel to that of Glasgow, without instancing so much as one that has the least resemblance.

Sir, it is so far from being an established maxim in this or any other country, never to grant relief to those who have suffered, in any extraordinary manner, by a war, that we have several late instances to the contrary. The Dutch are now about granting relief to the people of Bergen-op-Zoom; and when the Austrian army invaded Alsace in 1744, the French king granted to the people of that province an exemption from all taxes for a considerable time, in order to indemnify them for what they suffered by that invasion; and this must be allowed to have been a very wise and political step in the court of France, because, as that province is upon the confines of Germany, and, as the people must be supposed to have still some affection for the empire, to which they formerly belonged, it is necessary for the French to treat them with the utmost tenderness, not only to secure their fidelity, but to encourage the people of the neighbouring provinces in the empire, to wish for being brought under the dominion of France, which that ambitious court has been long aiming at. I mention this, Sir, because we have a reason of much the same nature for treating the people of Glasgow with more than ordinary tenderness, as must be allowed by every one who considers the situation of that city, and the disaffection that still reigns in that country.

Now, Sir, with regard to the practice here at home, as we have the happiness to be situated in an island, and have, I hope always shall have, a superior force at sea, we can but rarely have an occasion to exercise our charity or generosity towards those places that have sustained any great loss by war.

The loss by the descent of the Spaniards in queen Elizabeth's reign, or of the French in that of king William, was so inconsiderable, that it was not worth the public notice; nor can any one at this distance of time say, that none of the sufferers met with any charitable relief from the crown, because the public revenue was at neither of those times so strictly appropriated by parliament as it is now. But to come nearer our own time, I must desire gentlemen to recollect, that during the Rebellion in the year 1715, several houses were burned or destroyed both in Scotland and at Preston in England. What did the parliament do upon that occasion? They did not propose to make good the loss of every one that suffered by that rebellion; but as the loss by the destruction of these houses was ex-

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traordinary, they resolved that it should be made good to the proprietors. The fund they appropriated for this purpose was, indeed, the produce of the forfeited estates, because, as several great and free estates had become forfeited both in England and Scotland, it was apparent, that this fund would be sufficient, which is far from being the case at present; and as those estates had been granted by the late king to the public, it is a proof, that even here at home, the public does sometimes think itself obliged to make good a loss sustained by war, when that loss happens to be of an extraordinary nature.

I could give many other instances, Sir, especially from foreign history, where the public has granted some sort of relief to private persons or societies that have suffered extraordinary losses by a war; but those I have mentioned will suffice to shew, that the maxim contended for is not general; and indeed it would be cruel to establish such a general maxim without any exception. Then as to the supposition, that there are several places whose case is exactly parallel to that of Glasgow, I need not make any answer, because I am convinced, there is no such place in the kingdom; and as to the places that have been mentioned in this debate, it has been shewn by the gentlemen who spoke before on the same side with me, that there is no sort of resemblance; consequently, from this precedent we can apprehend no new demand upon the public.

But the hon. gentleman who spoke last, has set up a new doctrine; he was pleased to say, Sir, that as there was no invasion by any body of foreign troops, all those places that suffered by the Rebellion, deserved to suffer, because they did not defend themselves: it was lucky for him that the rebels did not come near any place where he had a concern; for if they had, I believe he would have taken care not to broach any such doctrine, which is a doctrine no one will adopt, who knows the difference between the people of a fruitful country, who think of nothing but industry, agriculture, and manufactures, and the people of a barren, mountainous country, who think of nothing but idleness, arms, and military exercises; for against the latter, the former must always defend themselves by a regular standing army. But supposing this doctrine were to be admitted, the city of Glasgow has a good plea, which no place to the southward of it can lay claim to, I mean that of its being surprised by the rebels coming so suddenly and unexpectedly upon them; so that they had no time to prepare or provide for their defence, had they been capable to make one.

This doctrine, therefore, may operate against giving relief to any place south of Glasgow, but can have no weight against our giving relief to that city, and consequently is an argument in favour of the motion; because it shews, that what we do in this case, can be no precedent for our doing the same in any other. This, Sir, the hon. gentleman seemed to be sensible of, and therefore he gave us another new doctrine, by attacking the prudence of the magistrates of Glasgow, in raising the money demanded by the rebels upon the credit of the corporation, and not leaving them to raise it by force of arms upon the inhabitants. I shall readily admit, that the inhabitants, as the gentleman said, would have raised the money rather than expose their houses to be plundered, and their city reduced to ashes: nay, I believe, rather than subject themselves to this, they would have raised the whole sum first demanded; and if the rebel chiefs had shewn as little regard to that city, as some gentlemen now do in this House, they would have insisted on their first demand; but by the address of the magistrates, and their agreeing to raise the money, the rebels were satisfied with a little more than the third of their first demand; whereas, had the magistrates obstinately refused to raise any money upon the credit of the corporation, and put them to the trouble of raising it by force of arms upon the inhabitants, how are we sure, that they would not immediately have given a loose to their banditti crew, and exposed the city to all manner of military execution? The least that could be expected, if they had been put to the trouble of raising the money by force of arms, would have been, their raising a great deal more than they at first demanded; and how would they have raised it? Certainly, by taxing those highest that had shewn the greatest zeal for the government; so that our most faithful friends would have been the greatest sufferers; and if there were any in that city who had ever shewn a warm side to the Pretender's cause, they would have been allowed to go Scot-free.

It is therefore evident, Sir, that the magistrates of Glasgow acted the most prudent part, both for the service of the

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government and the friends of the government; and that even though they should hereafter be obliged to sue for an act of parliament, to enable them to raise money by a tax upon the inhabitants, for paying off the debt then contracted upon the credit of the corporation. This they must do, Sir, if the motion now before us be rejected, or otherwise the corporation must be ruined; and either of these I should look on as a trophy erected to the honour of the rebels, and a warning to all the people of this kingdom, never to expose themselves to the resentment of the Jacobites by any proofs of their zeal for the support of this government. Might not this have most terrible consequences? Could we expect that any man would hereafter exert himself in favour of a government that had erected such a trophy, or given such a warning? If the corporation of Glasgow should be ruined, or the citizens taxed for preventing it, would not every one that heard of it, shake his head and say, This is the fruit of their zeal for the support of the present government? The hon. gentleman said, that if the inhabitants of Glasgow should be taxed, by authority of parliament, for raising the money extorted from the corporation on account of its loyalty, they would reflect upon the original cause of that tax: this I shall readily admit: but what was the original cause? Their loyalty, Sir, their fidelity, and their steady adherence to Revolution principles: it was this that exposed them to the resentment of the rebels: it was this that made the rebels extort such sums of money from them: it was this that was the original cause of their suffering, and will by them be considered as the original cause of the tax imposed upon them: and as in this age we cannot expect, that men will be martyrs even for our present happy establishment, we may expect, that not only they, but many others, from their example, will take care, by their future conduct, to remove this cause, in order to prevent its exposing them to any future suffering.

Sir, the fatal consequences of our rejecting this motion, are so glaring, that I am surprised to hear it opposed by any gentleman who has a regard for the liberties or religion of his country, or for our present happy establishment, upon which both so intimately depend. The sum now moved for is due in justice, in compassion, in gratitude to the city of Glasgow; and in prudence we ought to grant it as speedily and unanimously as possible. That city is so far from derogating from its merit by this application, that, I think, we are obliged to its friends for asking so little, because they have thereby shut the door against an application from any other place or person in the kingdom; and we were also obliged to them for having so long delayed this application: while the nation was engaged in a heavy and expensive war, and obliged to raise such vast sums of money yearly for the support of that war, out of regard to the public, they deferred making their just demand; and from hence the noble lord who spoke some time since, may see the reason why they did not apply till the month of January or February last. Surely, their regard for the distresses of the public, ought not to be made an argument against them. Would it be fair in a man to refuse paying a just debt, because his creditor had delayed making any demand till he was in a condition to pay it? Such arguments must shew, that gentlemen are at a loss what to say against this motion. Therefore I shall conclude with observing, that as to what has been said about the produce of the forfeited estates, and the application of the civil list revenue, it is quite foreign to the present question: we have been assured, from the best authority, that neither of those funds can answer the present demand; and when gentlemen move for an enquiry into either, I shall very freely give my opinion upon the subject: for I am fully convinced, that no gentleman who is entrusted by his majesty with the management of those funds, is afraid of an enquiry, however strict, if it be but candid and impartial. But as this enquiry cannot be set on foot, much less completed, during this session, and as the demand now under consideration requires immediate satisfaction, I shall be for agreeing to the motion.

The Resolution was then agreed to.

*Debate in the Commons on a Plan for speedily Manning the Navy.**] April 14. A motion was made for leave to bring in a Bill for providing seamen for his majesty's navy, without distressing trade. The motion was made by

Lord *Barrington*, who rose and said:

Sir; it is a maxim with all wise and well-governed nations, in time of peace, to provide for war. How it comes that this

* From the London Magazine.

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maxim has always been neglected by this country, I cannot answer; but it is certain, that our present load of debt is chiefly owing to this neglect, as well as many other inconveniences, which we have never missed being made sensible of at the beginning of every war, and yet have never profited by that experience. I could mention many, Sir; but at present I shall confine myself to that of the distress we are always in, when a war first breaks out, for want of seamen to man his majesty's navy. In time of peace we have always hitherto been so improvidently frugal, as not to keep up a greater number of seamen than what was barely sufficient to provide for our necessary guard-ships at their lowest complement. The consequence of this is, that 30 or 40,000 seamen, employed in the navy during the war, are, upon the peace, sent a grazing, and most of them forced to go into foreign service, or to betake themselves to some other employment; so that in three or four years time, or before a new war breaks out, they are become absolutely unfit for the sea service; and it is not in our power to fetch back those, that have betaken themselves to foreign service; nor is it in their power to return, without leave from the state in whose service they are, which they can but seldom obtain, because all our neighbours are fond of our seamen, and unwilling to part with them, after they have once got possession.

That this must always be our misfortune, Sir, while we pursue the same frugal maxim in time of peace, is evident; for a certain definite number of able and expert seamen must be necessary in time of war as well as peace, for carrying on our commerce, coasting trade and fisheries, and no more can be necessary for these three branches in time of peace, than in time of war. By way of example, I shall suppose that 80,000 men are, in time of peace, employed in these three branches, and that of this number it is absolutely necessary that 70,000 should be able and expert seamen: upon this supposition it is plain, that when a war breaks out, they may spare 10,000 for the service of the navy, because they may, without danger, supply that number by taking in landmen; but if we take any greater number from them, we bring them into distress, and the greater their distress will be, the greater number we take from them. Then suppose, that in time of war 50,000 men are employed in the navy, and that of this number 30,000 must be able and expert seamen; if in time of peace we keep 20,000 able and expert seamen in pay, we shall upon the breaking out of a war stand in need of but 10,000 from our trade, which is no more than it can spare; but if in time of peace we keep but 10,000 able and expert seamen in pay, we shall upon the breaking out of a war be obliged to take 20,000 such men from our trade for the service of our navy, which is 10,000 more than our trade can spare, and consequently it must thereby be brought into vast distress.

From this example, Sir, we may see, that the number of able and expert seamen, which in time of peace we keep in pay for the service of our navy, ought always to bear a certain proportion to the number necessary for that service in time of war, and to the number of such men employed in time of peace in our commerce, coasting trade, and fisheries; which shews how necessary it is for us to adopt every measure that may contribute to the increase of our seamen in every one of these branches, and to avoid every measure, however frugal it may seem, that may at the first breaking out of a war bring distress upon all or any one of these branches. Whether the number I have mentioned be truly the number of men employed in these three branches, is what I will not take upon me to assert, but, I believe, it is not much over or under; and whatever number is employed, I am of opinion, taking one ship or vessel with another, that it is necessary, for the safety of the ship, to have 7-8ths of her complement able and expert seamen; therefore admitting my supposition, as to the number of men employed, to be just, we cannot, at the breaking out of a war, take above 10,000 seamen from our trade, without exposing it to great distress; and consequently in time of peace we ought never to have less than 20,000 able and expert seamen in pay for the service of the navy, if we are resolved, which, I hope we are, never to go to war with a less number than 50,000 men employed in that service.

But, Sir, as it is not necessary in time of peace to keep such a number of ships in commission, as may require the service of 20,000 seamen, and as in our present circumstances we ought to be as frugal as is consistent with our future as well as present safety, an expedient has been thought of, which is, to keep a less number than 20,000 in full pay, and to make up the deficiency, by retaining and se-

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curing a certain number of seamen for the service of the government, when it has occasion, over and above those actually employed, by such an allowance of pay as shall be thought proper.

This, Sir, is the expedient that has been thought of, and I shall conclude with moving for leave to bring in a Bill for this purpose: but before I do, I think it necessary to inform you, that the intention of the Bill I am to move for, is only to have 3,000 seamen kept in pay for next year, at the rate of 10*l.* a man per annum. For as we have already in this session voted 17,000 seamen for the service of the ensuing year, no more than 3,000 will be wanted to make up the number 20,000; and as this is the least number, in my opinion, that can be sufficient for preventing our being obliged to distress our trade in case of a new war, we ought the more readily to agree to what is intended by the Bill I propose, as it will cost the nation but 30,000*l.* whereas, if these 3,000 were to be actually employed, they would cost the nation, at the rate always allowed by parliament, 156,000*l.* And an expedient which saves the nation 126,000*l.* per annum, without endangering our future safety, is, I think, an expedient that deserves the approbation of every gentleman who wishes well to his country.

I am encouraged to make this motion, Sir, not only by the reasonableness and utility of the thing, but also by the unanimous approbation of the board I belong to; but at the same time I must acquaint you, that though they approve of the expedient, they do not design to push its being established, by having the Bill passed into a law before the end of this session: they only desire, that a Bill for this purpose may, during this session, be brought in, that the nation may see what is intended; and then they will leave it entirely to gentlemen's own consideration, whether it be an expedient that ought to be presently adopted or left till next session, that those without doors, as well as those within, may have time to deliberate seriously upon the subject, and approve of this, or offer some better expedient; for as to the general principle upon which it is founded, there is not a sensible man in the nation, but must agree to it: I believe, there is not a man in the kingdom, who knows any thing of trade and navigation, that will deny its being absolutely necessary for us to contrive some method, for preventing our being obliged to distress our trade at the beginning of every war, by taking a greater number of able and expert seamen from them, than they can supply by landmen, with any safety to the ships or vessels they employ in trade. I shall, therefore, conclude with moving for leave to bring in a Bill, "for providing Seamen for his majesty's Navy, in case of a war, without distressing trade."

The Earl of *Egmont*:

Sir; if one could be allowed, in this age, to borrow any thing from the Bible, I should observe, that when the devil has a mind to deceive, he always puts on the appearance of an angel of light; so when any scheme is formed for the introduction of arbitrary power, the projectors always assume the appearance of patriots, and affect a sincere concern for the safety of the nation, or for the encouragement of our trade and navigation. When I say this, Sir, I am far from supposing the noble lord, who made this motion, to be one of these projectors: I am persuaded, he has been deceived by the plausible pretences made use of, for our agreeing to such a Bill as he has proposed; for I shall readily admit, that in time of peace we ought to provide for war, and if this maxim had been once thought of by our ministers since the treaty of Utrecht, we should have been in a much better condition to carry on the war we were lately engaged in: I shall likewise admit, that in time of peace, we ought to contrive methods for preventing our being obliged to distress our trade, upon the breaking out of a new war. But from the sketch the noble lord has given us of the Bill he intends, I will aver, that it has not the least tendency towards that salutary end. On the contrary, I must look upon it as a new attempt for introducing a military government amongst us, of which we have had many within these last two years.

There seems, Sir, to be a set of projectors now at work, and have been for some time, who have endeavoured all they could to introduce and establish a blind and slavish obedience among the officers and soldiers, both of our navy and army; and now they are forming schemes for increasing, as much as they can, the number of those they thus intend to make slaves. Such schemes, Sir, must give the alarm to every gentleman, who harbours in his breast the least concern for our ancient and happy constitution. If those projectors had thought, that it was necessary

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for us to keep in pay a body of 20,000 seamen, even in time of peace, they should have desired a proportional less number of land-forces; for I can see no reason why our seamen may not be taught the land exercise, and regimented for that purpose; and if they were, I am sure, they would be as good for hunting smugglers, dispersing a mob, or opposing a sudden invasion, as any foot regiment in the service.

But why should I talk of seamen, Sir? Surely, no one can imagine, that 3,000 seamen kept in pay, at the rate of 10*l.* a year, which is above 6*d.* a day, without ever being employed, will long continue seamen. If they can live upon that allowance, as they may do in several parts of the island, they will betake themselves to an idle, lazy, indolent life, so that in two or three years, we shall find them unfit either for sea or land-service; and if they cannot, or if some of them do not chuse to live upon that allowance, they must apply to some sort of manufacture or daily labour, or they must employ themselves in our coasting trade or fisheries: if they apply themselves to manufacture or labour, it will be attended with two inconveniences: for, first, they may, and certainly will, underwork every man that has no allowance from the government, which, of course, will drive many of our labouring manufacturers out of the kingdom, and consequently must be of great prejudice to our manufactures; and, secondly, by being thus always employed at land, they will, in a short time, become unfit for sea-service.

But suppose again, Sir, as I believe, would really be the case, that all of them should betake themselves to our coasting trade or fisheries, we should then be at a great public expence, without adding one single man to the number of our able and expert seamen; for their employing themselves thus in the merchants service, would prevent an equal number of men from being bred to the sea; and our taking them from that service, at the beginning of a war, would bring as great a distress upon our trade, as to take from thence an equal number of seamen, that had never before cost the public a shilling expence.

In short, Sir, the inefficacy of this scheme with respect to what it is openly said to be designed for, is so glaring, that I must suppose, the first projectors were not insensible of it: and consequently I must suppose, that they had a secret design, which is not, in my opinion, difficult to be guessed at. These 3,000 men they design as an addition to the number of their intended slaves, and as a new number of pensioners, whom they are hereafter to make use of, for gaining an influence in the few remaining cities or boroughs that still continue refractory to a minister's *congé d'elire*; for we may depend upon it, that no seamen will be admitted upon this pension, who has not a vote in some city or borough; and before a new war breaks out, unless it happens very soon, as it probably may, we shall find, that of these 3,000 pensioners, there is not so much as one good seaman amongst them.

This, Sir, was, I am persuaded, the secret design of those who were the first projectors of the Bill; and I must observe, that they have chosen a most artful method for getting it introduced into this House; for the motion is drest up in terms so plausible and popular, that no gentleman can oppose it: but when the Bill is brought in, I make no doubt of my being warranted to oppose it, by petitions from all parts of England; and I hope to give such reasons for my opposition, as will prevail upon this House to reject it with indignation.

Mr. *Pelham*:

Sir; whether the projectors of this Bill are devils in the shape of angels of light, will best appear from the Bill itself, when fairly laid before you, and candidly considered; but I must observe, that it is not ministers only that may be accused of putting on false appearances, in order to deceive; for, I believe, most people in the nation are now convinced, that those who oppose an administration may be guilty of the same crime, and may assume the characters of patriots, of guardians of our liberties, of friends to our happy constitution, and what not, with no other design but to distress the then servants of the crown, in order thereby to force themselves into their places. I say, Sir, as most gentlemen, both within doors and without, are now, I believe, fully convinced of this, I hope, they will seriously consider, that no government can be carried on, without proper powers lodged somewhere or other, for the exercise of that government; and if this be seriously considered, no gentleman will refuse such powers as are absolutely necessary for the exercise of our government, from an apprehension that they may be made a bad use of.

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Having said this, Sir, I must observe, that even the noble lord himself allows, and indeed no gentleman can deny, that it is absolutely necessary for us to contrive some method for manning his majesty's navy upon the breaking out of a war, without subjecting our trade to such distress, as it has, upon every such occasion, been hitherto exposed to. I have heard of many schemes for this purpose, and I examined them with the utmost attention, but, I will be bold to say, that no effectual scheme can be thought of, without keeping always a greater number of seamen in full pay, or at some allowance, than is necessary for his majesty's navy in time of peace. This being the case, I must think it better, to keep the supernumeraries at a small allowance yearly, than to keep them employed, and in full pay, when we have no occasion for their service.

As to the objection, Sir, that in two or three years, they would become mere landmen, and quite unfit for the sea-service, it may be prevented by a clause in the Bill for making them take their turn in the service of the navy, which would keep them always inured to the sea, and fit for that service; and, at the same time, prevent what the noble lord seems so much to apprehend: I mean, that of their being pensioners to an administration, and kept in pay for no other end but to gain an influence at elections for members of parliament; for, I believe, it is pretty certain, that no man, who had a house and family in any of our cities or boroughs, and such a trade or business as enabled him to pay all parish rates, would for the sake of 10*l.* a year, subject himself to the necessity of leaving his trade or business at the end of three or four years, and going to serve as a foremast-man, on board one of his majesty's ships of war bound perhaps to the East or West-Indies.

It is therefore easy, Sir, to prevent its being possible to suppose, that the Bill now moved for is intended as a scheme for influencing elections; and how the noble lord could apprehend its being a scheme for increasing the number of those intended to be made slaves, I cannot imagine; for no man ever dreamt, that the 3000 seamen, thus to be kept at a small yearly allowance, should be made subject to the Mutiny-Bill; and while they are at land and unemployed in the navy, they can be subject to none of the regulations established for the better government of the navy, except that single one of being tried and punished as deserters, should they abscond, and refuse to answer when called out to service.

I can as little imagine, Sir, how the noble lord could insinuate, that any attempts have been lately made, especially within these last two years, to introduce a military government amongst us, or to establish a blind and slavish obedience among the officers and soldiers both of our navy and army: such insinuations will, I am convinced, be looked on by every candid hearer, as proceeding from chimerical fears, rather than from any real causes. What attempts have been made towards either of these ends within these last two years? The Mutiny-Bill, even in the form in which it was at first brought in, was very little different from what it has been for many years past; and nothing now was proposed to be added to the Navy-Bill, that could be of any dangerous consequence to our liberties. In both some little variations were proposed, for the more effectually preserving good order and discipline in our army and navy; but was there any attempt made by either, to subject any man in the nation to military law, except such as properly belonged to our army or navy? Was there any thing proposed in either, that could subject any man to the arbitrary will of the crown, or of any person employed by the crown? No, Sir: if both had passed in the very words in which they were first introduced, I will say, that every soldier and sailor in the service of the crown, who did his duty and committed no crime, was as free, and as safe with respect to his life, liberty and property, as any other of his majesty's subjects, or as any subject ought to be under any government whatsoever. But this was not all: was not every alteration or amendment that gentlemen's fears, rather than their reason, could suggest, readily agreed to? And I am afraid, it will be found by experience, that too many alterations were made; because, whilst we keep up an army or navy, we must establish such regulations as are necessary for preserving a due subordination to their superior officers, from the sentinel up to the commander in chief: for without this, I am sure, no wise man, that could any other way subsist, would accept of a command, either in our army or navy, even in time of peace, and much less in time of war.

Therefore, Sir, as there has not been of late the least appearance of an attempt to



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hurt our constitution, I must look upon the insinuations thrown out by the noble lord, rather as flowers of rhetoric, than as arguments against the Bill now proposed; for though I know no more of it, than what the noble lord, who moved for it, was pleased to explain, I may venture to say, that no argument can be good against it, except that of proposing a better method for preventing the evil which it is designed to remedy. As to the remedy suggested by the noble lord who spoke last, of regimenting our seamen, teaching them the land-discipline, and making them do the duty of land-forces in time of peace, I cannot think he was serious; for as soon as a war begins, every such regiment must necessarily be sent to serve in our navy, and, I hope he will not say, that when an invasion is made, or designed to be made, it is a time of peace; so that if our enemies should escape our fleet at sea, and actually land in some part of the island, we should not have a regiment of regular disciplined foot to send against them; and how useless horse or dragoons would be in such a close country, ever man, who understands any thing of the military, may easily determine.

For this reason, Sir, if the motion be agreed to, I hope the noble lord will be one of those appointed to bring in the Bill, when he may offer any expedient he pleases for rendering it effectual; but if he offers none better than what he has now suggested, I believe, he will find it difficult to procure petitions against the Bill, or to advance such arguments as may prevail with this House to reject it. However, let its fate be what it will, I think we ought to agree to this motion.

Mr. *Horatio Walpole*, sen.

Sir; I have long had the honour of being a member of this House, and pretty closely attended to what passed here; I have also heard or read of what passed here, before I had a seat in this august assembly; and upon the whole, I must make this general observation, that our constitution, or the church's being in danger, has been the constant cry of those who were disobliged by, and consequently opposed the administration. Whilst the people seemed to have a warm zeal for our national church, it was always said to be in danger, either from Popery or Presbytery, by those who, at the time, happened to have no share in the administration; and this cry was so often trumped up, and upon so many occasions made a pretence for opposing the most salutary measures of government, that the people seemed at last to lose all regard even for religion itself; so that both Popery and Presbytery, as well as our national church, seem now to be in equal danger. When our opposers found, that they could no longer avail themselves of the people's zeal for religion, they took up the cry of liberty, and every necessary measure of government has, by them, been represented as an encroachment upon our constitution, and an attack upon the liberties of the people. What effect this may have on the minds of the people, I shall not pretend to foretel, but, I hope, it will never have such an effect upon their minds as that of the church being in danger has already had: I hope, it will never have any other effect than that of preventing the people being rash in believing those who tell them that their liberties are in danger; and if they consider coolly, I am sure, they will give no credit to those, who at present endeavour to frighten them with their liberties being in danger.

The cry, Sir, is at present so void of all foundation, that it is hardly possible to treat it in a serious manner; and, as a famous poet has long since observed,

——Ridiculum acri,
Fortius, et melius magnas plerumque secat res.

I shall therefore only tell you a story. In king William's time, there was a famous member of this House, whom you have all heard of, John How by name, who having been refused something which he had not, or at least, which that wise prince thought he had not any title to ask, took it into his head to set up for a patriot, and to become a violent opposer of the administration. From that time this gentleman's continual cry was, 'Our liberties are in 'danger, our constitution is to be over-'turned;' and with such exclamations, he was always endeavouring, by his pretended fears, to raise real apprehensions in the minds of some of the weak men of that age. Argument signified nothing, he still went on harping upon the same string; but at last he was silenced by a story told the House by sir Thomas Lyttleton, which was thus: "A gentleman of my acquaintance," says sir Thomas, "was lately travelling in a coach with two ladies, who were sisters: one sat very quiet, and without being in the least disturbed; but the other was upon every little jolt in a fright,

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and always crying out, 'O Lord, Sir, 'we shall be overturned! For God's sake, 'tell the coachman to drive softly!' 'What is the matter, madam,' says the gentleman? 'Why are you in such a 'fright? We have a firm easy coach, a 'plain good road, and a careful, cautious 'coachman: there is not the least danger.' But all signified nothing: the lady continued as before. At last the gentleman asks the other lady: 'What ails your 'sister, madam? Is she usually of such a 'fearful temper?' To which the other answered, 'Do not mind her, Sir: my 'sister is really in no fright, only she 'thinks she has a very pretty voice, and 'therefore takes great delight in hearing 'herself speak.' "

This story, Sir, put the zealous patriot so much out of countenance, that he became quite silent, so that the House for some days, heard no more of the danger of our liberties; and, I hope, it will now have the same effect as it had at that time; for during his present majesty's reign, I am sure, we shall have no occasion for being put in mind of our liberties, or for being warned of their being exposed to danger; and if ever they should in any future reign, I hope, this House will stand in need of no common-cryer, to put them in mind of their duty.

The Earl of *Egmont*:

Sir; it is very easy for those who have given up all concern for the liberties of their country, to make themselves merry with any danger they may be exposed to; but the hon. gentleman who spoke last, labours under a very great mistake, if he fancies, that I love to hear myself speak in this assembly, or that any man in my circumstances can: a gentleman may love to hear himself speak, when, let him say what he will, he is sure of a plaudit of a great majority of the assembly to which he speaks; but nothing but a conviction of being in the right, and a warm zeal too for what he thinks right, can provoke a man to speak in an assembly where he has reason to expect, that whatever he says, will be ridiculed or condemned by a great majority of those to whom he speaks; and if I can judge from experience, I must suppose this to be my case. Nevertheless, Sir, the hon. gentleman will likewise find himself mistaken, if he thinks, that by any facetious story he can deter or prevent me from doing my duty, while I continue a member of this House; and I must observe, that it was not the frequent or the causeless cry of the church being in danger, that produced among the people such a lukewarmness for their established church, but it was her cause being neglected, and in some manner given up, by those whose duty it was to take care of it; and I wish the same cause may not produce the same effect, with regard to our liberties and constitution.

I shall now apply myself to the other hon. gentleman, and I must tell him the reason why I talked particularly of the last two years, when I said, that attempts had been made to introduce a military government amongst us. But two years ago the parliament was precipitately and unexpectedly dissolved, and a new one as precipitately summoned, for no ostensible reason, at least no reason that was ever yet, or, I believe, ever will be declared. Since that time several steps have been made, and more attempted, towards introducing a military government. The Articles of War have been altered in such a manner, that had they been in this session authenticated by law, as was intended, I am sure, every gentleman in our army must have considered himself as a mamaluke, or slave to his sovereign. Can a man be deemed free, who is obliged, under pain of death, to obey the orders of his general, without considering whether they be consistent with his duty as a soldier, a subject, a human creature, or a Christian? Yet this would have been the case of all the gentlemen of our army, had the Mutiny Bill passed as it was at first intended. In consequence of such a Bill, such orders might have been issued, as would have made every man concerned in the execution, liable to be hanged by the laws of his country. What a lamentable condition would such men have been in? If they disobeyed, they were to be shot for their disobedience: if they obeyed, they must either put an end to the laws of their country, or they must expect to be hanged by those laws. Of such an alternative we may easily judge, which side they would have chosen; and was this no attempt towards introducing a military government amongst us?

Besides this, Sir, the powers of courts-martial have been extended over more persons, and made more terrible, both for our navy and army, than ever they were heretofore. I shall grant, that in time of war the power of courts-martial ought to be very extensive, and the punishment



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sudden and severe; but is this necessary in time of peace? Was there ever a wise and free nation that did not, in this respect, make a distinction between a time of peace and a time of war? In this we ought to follow the example set us by our own colonies in America: as they must all be soldiers, when they think themselves in danger, they proclaim military law; but as soon as the danger is over, the military gives place to the civil, and thus they continue till a new danger threatens. This was formerly our case, and may be so still; for his majesty has still by his prerogative the power of appointing courts-martial, and constituting articles of war, either when he sends an army abroad, or when a war happens within the island; why then should we deprive our soldiers and seamen, in time of peace, and here at home, or upon our own coasts, of every privilege they are entitled to as Englishmen?

Can any good reason be given for this, Sir, if it does not proceed from a latent design, some time or other, to make our soldiers and seamen repay the rest of their countrymen in their own coin, by depriving them of all those privileges which they had first taken from them? And shall we contribute to this design, by adding to the number of these instruments of tyranny? It is true, there is but 3,000 asked for the ensuing year; but this I look upon only as a beginning, for I shall expect that 5,000 will be demanded for the next year, and 10,000, perhaps 15,000, for the year following. I am surprized to hear it said, Sir, that this additional number of seamen are not to be subject to military law, unless called to service in the navy; for as they are to be listed in, and to belong to his majesty's fleet, by the Navy Bill now passed, they will be subject to be tried and punished by a court-martial, for every military crime that can be committed by seamen at land, unless they are expressly exempted by the Bill now moved for, which has not yet been said to be intended.

Therefore, Sir, as the objections I before made, drew from the hon. gentleman the promise of a clause for preventing these half-pay seamen from becoming mere land pensioners, I hope what I now say will draw from him the promise of another clause, for exempting them from being tried by a court-martial, for any crime, except that of not answering when properly called out to service; and yet when both these clauses are added, I believe I shall be against the Bill, because I still think, it will be loading the public with a great annual expence, without answering the purpose intended.

For supposing, Sir, that our half-pay seamen should once in two or three years be obliged to take their turn on board his majesty's ships of war, yet we must suppose, that most of them, as soon as their turn was over, and they were discharged from that service, would enter themselves in the merchant service, so that we should not thereby increase the number of our seamen in general; and as all our half-pay seamen would be taken from the merchant service at the beginning of every war, we should thus, upon every such occasion, be obliged to distress our trade, as much as if the nation had not put itself to the expence of giving them half-pay, or any other allowance, in time of peace.

In short, Sir, the House may, if it pleases, order me to be one of those employed to draw up and bring in the Bill, and if it does, I must obey; but I now declare before-hand, that I know no possible method of preventing our being obliged to distress our trade at the beginning of every war, but that of keeping, in time of peace, a much greater number of seamen in constant employment and full pay, than we have occasion for: there is but one other, which in time might produce its effect, and is of all others the best, which is that of taking care to increase our commerce, coasting-trade, and fisheries, and thereby our number of seamen in general, to such a degree, as not to be obliged, at the beginning of any war, to take from our trade a greater number of able and expert seamen, than it can safely and easily spare. For example, if the number of seamen now employed in trade be 80,000, which I very much doubt of, because there is but about 40,000 upon the six-penny list, and if from this 80,000 we can at any time take 10,000 with ease and safety to our trade, then, by increasing our trade, and thereby the number of our seamen in general, to double what it is now, we might at any time take 20,000 from our trade without distressing it; and this, with 10,000 kept in pay in time of peace, would be sufficient for manning our navy at the beginning of a war. These are, in my opinion, the only two methods for attaining the end proposed by this motion, and therefore I must be against bringing in or passing a Bill upon any other plan.

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Mr. *Henry Bathurst:*

Sir; from the account we have had of what is intended, I must be against the motion for two reasons; first, because I think the method proposed for providing seamen for our navy, without distressing trade, will be of the most dangerous consequence to our constitution; and, secondly, because the method proposed for our doing this is contrary to the most established, and what, I think, ought to be held the most sacred, forms of proceeding in this House. As to my first reason, I need say no more, than that it is extending the power of courts-martial, by putting a new number of subjects under the paw of military law, and depriving them of the right they ought in time of peace to enjoy, which is that of being tried by God and their country.

As to my second reason, Sir, the method proposed is so evidently against our forms of proceeding, that I wonder it did not occur to the noble lord who made you the motion; for if it had, I am persuaded, he would have chosen another method of proceeding. Is it not evident, Sir, that by the method proposed, we are to grant money, without its having been ever brought before the Committee of Supply? Is there any one rule of proceeding better established, is there any one that ought to be more religiously observed, than that all sums of money to be granted by parliament for the current service, ought first to be considered in, and resolved upon by the Committee of Supply? After which the Resolutions of that Committee are reported to, and re-considered in the House; so that every branch of the supply must be twice solemnly considered, before it can be regularly granted by parliament; consequently, every member must know when money is to be granted, and the House can never be surprised into any needless or extravagant grant of money.

But, Sir, let us examine the method now proposed: a Bill with a most specious title, is moved for in a very thin House: by that Bill a sum of money is to be granted to the crown, but without the least intimation in the title, of such a grant being intended, and, consequently, no such intimation can appear upon our Journals, or in the printed votes: as to the quantum of the sum to be granted, it must remain blank till the Bill be committed; and as few gentlemen know any thing of such a grant being intended, the blank may be filled up, and the Bill read a third time, when none but ministers and their friends are present. Thus a very large sum of money may be very unnecessarily granted by surprise, and without its ever appearing in our votes, or being otherwise publicly known, till it appears in the printed statute.

From hence every gentleman may see the danger, Sir, of departing from our ancient and established forms, with respect to the granting of money; and I hope, you will give us your opinion upon the subject, before any question be put upon this motion; for in the light in which it appears to me at present, I must consider it as a dangerous departure from those forms.

Mr. Speaker *Onslow:*

I know nothing farther of what is intended by the Bill now proposed, than the noble lord who made the motion was pleased to inform us; but it is my opinion, that if any money is to be granted, of which an estimate can be made, it ought to have been first resolved on in the Committee of Supply: if otherwise; if it be no way possible to make an estimate or calculation of what money may be wanted, we have precedents for granting it by Bill, or by a clause in a Bill, without having it first resolved on in the Committee of Supply. The *5l.* reward now payable to the captors of enemies ships of war, was some years since granted by parliament, and large sums have been paid in pursuance thereof, though it was never brought before, or resolved on, in the Committee of Supply. So likewise in this very session we have granted *20s.* reward for every deserter that shall be apprehended, to be paid out of the land-tax; which was granted by a clause in the Mutiny-Bill, without being resolved on in the Committee of Supply.

I could mention several other precedents with regard to small sums, and in cases where no estimate could be made of the money that might be wanted for the service intended: but, in general, I must observe, that when any large sum is to be granted, especially if the service be of such a nature as can possibly admit of some sort of estimate or calculation, I hope, the House will always take care to have it first resolved on in the Committee of Supply.

Lord *Barrington:*

Sir; as I am always proud of joining

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in your opinion, so I shall readily agree with you in this, that when any service is positively resolved on, and an estimate can be made of the expence, the affair ought to be brought before the Committee of Supply, and a certain sum of money granted by that Committee for answering the expence of that service; but when I made you the motion now under consideration, I told you, that it was not so much as designed to have the Bill I proposed, passed into a law this session: the only intention was to have the Bill brought in during this session, that gentlemen both without doors and within might see what sort of Bill was intended, and might have time to consider it maturely betwixt this and next session.

For this reason, Sir, gentlemen may see that it would have been very improper to have brought the affair before the Committee of Supply; for, surely, that Committee is never to grant money for any service, till it be positively resolved on; and though the gentlemen entrusted by his majesty with the management of our naval affairs, approve of this method to provide for the manning his majesty's navy, at the commencement of a war, without distressing trade, yet they are so cautious as to desire to have it approved of by the nation, before any law be made for carrying it into execution: this caution, which is certainly in itself commendable, will not, I hope, be so maliciously interpreted, as to be reckoned a scheme for the introduction or arbitrary power. I am sure, none of the gentlemen of the Admiralty are capable of forming any such scheme; most of them have penetration enough to see through it, and honour enough to disdain joining in it, were such a scheme to be formed by any other person whatsoever. And as I have shewn, that our ordering such a Bill to be brought in, with the intention I have mentioned, can be no trespass upon our usual forms of proceeding, I hope my motion will be agreed to.

Mr. *Pelham*:

Sir; we may with the more freedom agree to the bringing in of such a Bill as is now proposed, because if it should be not only brought in, but passed into a law, no money will be this year asked or wanted for the service thereby intended; for near half of the year is already expired, and will be more than expired, before the number of seamen employed in the navy can be reduced to the number voted for the service of the current year. We cannot therefore suppose, that the money wanted for the service intended by this Bill, will amount to above 15,000*l.*; and that sum may be made good by the savings upon the other articles relating to the navy, particularly the half-pay, as many of the officers on that list cannot come home so soon as was expected, and consequently must remain at full pay, till they return and are discharged his majesty's service.

Now I am up, Sir, I must observe, that the complaints in this country have usually been against the too long continuance of a parliament, but I never heard of any complaint against the king's dissolving a parliament too soon, except when it was dissolved to prevent its redressing some grievance, or enquiring into some misconduct; and as there is not the least pretence for supposing that his majesty had any such design in dissolving the last parliament, I cannot comprehend how any complaint can be justly made against it.

Then as to the alterations that were made in the articles of war, and the amendments proposed to the laws for regulating either the army or navy, they were thought necessary for preserving order and discipline by those that made or proposed them; but the gentlemen who had thus made or proposed them, were so far from having formed any design against our liberties, that they readily departed from most of those amendments and alterations, merely because they were thought, or at least said, to be dangerous, by some gentlemen in this House, and not from any conviction they themselves had of their being so; for there was nothing proposed that could give any chief commander a greater influence over courts-martial than he has always had by our laws; nor was it ever proposed to subject any one man to martial law that did not belong to our army or navy.

This, Sir, is my opinion of the alterations and amendments, that were proposed to be made in our laws for regulating our army and navy; and when gentlemen differ about the necessity of any new law, or of any addition or amendment to an old one, they should judge more charitably than to throw out infamous insinuations or accusations against one another; for in all such cases, those who are for the affirmative side of the question, may accuse

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the others of a design to subvert our present happy establishment, by refusing to agree to such regulations as are necessary for its support, generally, I believe, with as much justice, as those who are for the negative side of the question, can accuse them of a design to subvert our liberties. The best way, therefore, in all such cases, is to judge candidly and even charitably of one another's intentions; and, if we judge in this manner, I am sure, no gentleman will suppose, that the present motion proceeded from any evil intention.

Mr. *Henry Bathurst:*

Sir; the more I hear upon the subject of the motion now under consideration, and the more earnest I see some gentlemen for having it agreed to, the more I am against it. Suppose no gentleman has any intention to push the Bill into a law this session; yet the very ordering of such a Bill to be brought in, is, in my opinion, a most dangerous encroachment upon our usual method of granting money. I shall admit, that from the title of the Bill moved for, there is no appearance of its being a Bill for granting money to the crown; but no gentleman ever had weight enough in this House, to obtain leave for the bringing in of any Bill, before his having explained what he intends by the Bill he moves for; and, indeed, it is not fit that any one ever should. The noble lord was so sensible of this, that he took care to explain to us very fully what was intended by the Bill he proposed; and from that explanation every gentleman must see, that it is a Bill by which a sum of money, a sum which, in our present circumstances, we ought to think a large sum, is to be granted to the crown, and that for answering the expence of a service whereof an estimate may not only easily but certainly be made.

Surely, Sir, a grant of this kind ought to have been first resolved on in the Committee of Supply, even supposing that the service was not positively resolved on; for the grant of money for any service in the Committee of Supply, even though agreed to by the House upon the Report, is not a grant perfected, till both the grant and service be established by a Bill, and that Bill agreed to by the three branches of the legislature. Suppose the committee should agree to the keeping up of 20,000 land forces for the service of the ensuing year, and should grant a sum of money sufficient for that purpose: suppose again, that this House, or perhaps the other House, in passing the Mutiny Bill, should reduce the number of land forces to 10,000, will any one say, that the Resolution of the Committee of Supply, though agreed to by the House, and provided for by the Committee of Ways and Means, would be a sufficient authority for the Treasury to issue the whole sum granted by that Resolution? No, Sir, in all cases, where money is granted by the Committee of Supply, for a service which must afterwards be established and regulated by a Bill, the grant can have no effect unless the Bill be passed into a law; and when any public service is to be established and regulated by a Bill, or by a clause in a Bill, the sum of money necessary for that service, if it can be estimated, ought to be resolved on in the Committee of Supply, before the Bill be brought into the House.

This, Sir, is our usual and our only regular method of proceeding in all such cases: the largeness or the smallness of the sum ought not to make any difference; for the grant of a small sum, in an irregular manner, will be a precedent for granting a large sum in the same manner; and if we once admit of the precedent for granting a sum of money by Bill, without having it ever once considered of in the Committee of Supply, some future parliament may, by such method, be surprised into a perpetual grant, that will render it unnecessary for the crown, for ever after, to call any parliament at all. Such a Bill may be moved for, brought in, and passed, in three days time, at the beginning of a session, before the Committees of Supply and Ways and Means can in the usual course be established, or at the end of a session, after both these committees have been closed, and consequently before those, who are not ministers, or dependants upon ministers, are come to town, or after they have returned to their country habitations.

Let us consider, Sir, upon what the weight and authority of this House chiefly depends: it is upon our power of granting money. Should we once give up that power, or allow it to be filched from us by surprise, we should no longer have any weight or authority: nay, we should have a being, as a House of Parliament, no longer than we continued to be the submissive and obedient slaves of the administration. Have we not, therefore, the strongest reason to be at all times jealous of this power, and to guard with the ut-

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most caution against every step that may lead towards our being deprived of it? Gentlemen may talk of candour and Christian charity as much as they please; but I shall always think it the duty of every member of this House, who is not concerned in, and consequently no way acquainted with the secrets of an administration, to be suspicious of their designs; and when extensions of power are aimed at, or when things are attempted by a new and extraordinary method, which might as well have been done in the usual course, there will always be good ground for being suspicious. Can any one say, that a very great extension of the power of courts-martial in time of peace, has not of late years been established, and a much greater aimed at? Are they not now made judges of crimes and offences, of which they had formerly no cognizance? May they not now inflict severer punishments upon some crimes than they could formerly have inflicted? And is neither of these any extension of their power? Such powers may be necessary in time of war, or in foreign garrisons, and at such times, or in such places, his majesty may establish them by virtue of his prerogative; but in time of peace, and within this island, I am sure, no such extensive powers can ever be necessary for any good purpose. I shall indeed grant, that in one case our military ministers were for restraining the power of courts-martial more than this House would agree to; but it was their power of acquitting, not their power of condemning and punishing the unhappy culprit; for if we had not restored the word, 'lawful,' which had been expunged out of the 5th article of war, a court-martial could have had no power to acquit an officer for disobeying the most unlawful orders that could be given: had an officer been commanded to murder his father, and burn his father's house, for protecting his sister from the brutal lust of his commanding officer, and had disobeyed such inhuman orders, the court-martial could not have acquitted him: upon full proof of the orders and disobedience, they must have condemned him, and must have ordered him to be shot for his disobedience.

Can we judge charitably, Sir, of the designs of those, who expunged such a necessary word out of an article of war, and aimed at its being approved and authorised by parliament in time of a profound peace, both at home and abroad? Then as to the persons subjected to courts martial, and martial law, were half-pay officers ever subject thereto before last year? Can it be said, that the depriving of 2 or 300 gentlemen of the chief privilege of Englishmen, is necessary in time of peace, or that it is of no dangerous consequence to the liberties of the people of this nation? The gentlemen who do these things, may think as they please; but whatever they think, I know what to think of their modesty, when they desire us to judge of their secret designs with candor and Christian charity. But this is not all; for I now find, that they are not content with having subjected to martial law, all our half-pay officers, and all those in actual service, either by sea or land, but they must have 3,000 more men subjected to that law, though neither in full pay, nor in actual service. Surely, it will not be said, that a man who is to be tried for his life by a court-martial, is not subject to martial law; and it has been admitted, that every one of the 3,000 men proposed by this Bill to be retained, is to be tried by a court-martial for desertion, in case he should refuse or neglect to appear when called out to service.

The Bill now proposed is therefore plainly, Sir, a scheme for extending martial law over a great number of men, not before subject to it; and I am the more jealous of every such extension, on account of the doctrine lately broached, that no officer either in full pay, or half-pay, can resign his commission, and leave the service, without consent of the crown; and especially on account of a doctrine I lately heard in another place, from a person of very high rank, that as he had once had the honour to bear his majesty's commission, though he is now neither in full pay, nor half-pay, nor any other way in the military service, yet still he should think himself obliged to obey his majesty's order, were it to go and serve, by virtue of that commission, in Nova Scotia; for the natural consequence of such a doctrine is, that every man who has once in his lifetime borne his majesty's commission, is, and must remain subject to martial law, till his majesty shall give him leave to resign and quit the service; which leave would, I fancy, be very seldom granted, if this doctrine were once established.

But though the subjecting of an additional number of men to martial law be a very bad thing, yet still, Sir, it is not the worst part of the scheme now under consideration; for, as a sum of money will be

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necessary for retaining those men in the service, it is proposed, that this sum should be granted in an extraordinary manner. Is this, Sir, no way suspicious? I hope I am as good a Christian as most of my neighbours; I hope I have as much charity as any member of this House ought to have for the designs of ministers: but when we are desired to do any thing in an extraordinary manner, which might have been as well done in the ordinary usual course of proceeding, I cannot avoid having some suspicions. If it be thought, that any method can be contrived for manning his majesty's navy, at the breaking out of a war, without distressing trade, why should not we have gone into a committee of the whole House upon that subject? I confess, I am doubtful whether any such method can be contrived; but had we gone into such a committee, every gentleman would have had an opportunity to offer his sentiments; and if any resolutions had been agreed to, which required money, those resolutions, after being approved of by the House, would have been referred to the Committee of Supply, and the money necessary for that service would thus have been granted according to our usual method of proceeding in such cases.

I have shewn, Sir, that the service not being positively resolved on, was no reason why such a method of proceeding should not be followed: besides, I know no place where such a service can be positively resolved on, but in parliament; and there it ought to be resolved on in a regular manner. I was indeed surprised to hear it suggested, that no money would this year be wanted for this service, even though the Bill proposed should be passed into a law, because the savings upon other articles might be applied to, and would be sufficient for this service. I should be glad to know, Sir, what minister, or board of ministers, would venture to apply to this service the savings upon other articles. Ought not all savings to attend the future disposition of parliament? Would it not be a misdemeanor in any minister, to apply the savings upon one article, to make good the deficiency upon another, without the authority of parliament? I hope it will always be deemed such; for to allow a ministry to do so by their own authority, would be a power of the most dangerous consequence to our constitution; and therefore, if ever any such practice should be discovered, I hope this House will take care to vindicate its sole right of determining how the people's money is to be disposed of, by punishing any minister that dares dispose of it without our authority.

For this reason, Sir, as I have a great regard for those who have the honour of being at present our ministers, and particularly for the hon. gentleman who made use of this argument, I shall be against this Bill making its entry into this House.

Sir *John Barnard:*

Sir; I have often complained, both without doors and within, of the distress brought upon trade, not only at the beginning of a war, but as often as any large squadron is to be fitted out; and this distress, I foresee, our trade must always be exposed to, unless some effectual method be contrived for preventing it. As to the scheme now under consideration, I never heard of it till the noble lord was pleased to open it in this House; and as I do not think I have had time enough to consider it, I shall say nothing against it, and as little in its favour. I wish with all my heart, that some effectual scheme could be formed, and shall upon all occasions be ready to give all the assistance in my power; but as many gentlemen seem to disapprove of the method proposed for introducing this scheme into the House; and as the noble lord says, there is not a design to carry his scheme into execution this session, I think, the best method would be, for him to wave his present motion, and to move for our resolving ourselves into a committee of the whole House, to consider of methods for better manning his majesty's fleet for the future, without prejudice to the trade of the nation. This motion, I am persuaded, Sir, no gentleman will oppose, and it will shew the people without doors, that we have the affair seriously at heart, which will probably produce some proposals that may be of service to us; therefore, I hope, the noble lord will comply with what I have taken the liberty to advise.

This proposition was agreed to, and accordingly,

May 3. The House resolved itself into the said Committee, and came to a Resolution, which was reported upon the 11th; whereupon a motion was made for ordering the Report to lie upon the table, which brought on a new debate; but upon the question being put, it passed in the negative by 110 to 47; after which the Resolution was agreed to by the House,



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and was as follows: "That the retaining and securing a number of Seamen, over and above those actually employed, by a proper allowance of pay, will be a means of more speedily manning his majesty's navy, on any future occasion, without distressing trade." Here the affair ended.

*Proceedings on the American Paper Money Bill.*] On the 16th of February, a Bill was brought into the Commons by Mr. Horatio Walpole, sen. "To regulate and restrain Paper Bills of Credit in the British Colonies and Plantations in America; and to prevent the same being legal tenders in payments for money, &c." March 3, it was read the first, and ordered to be read a second time. In this case it was plain, that nothing more was necessary to be provided for by law, than that no such Bills should be made legal tenders in payments for money; but as the Bill contained an absolute prohibition to issue any paper Bills of Credit, of any kind or denomination, or under any pretence whatsoever, without his majesty's licence; and as it likewise contained a clause for subjecting our colonies and plantations to such orders and instructions, as should from time to time be transmitted to them from the crown; it raised a general opposition from our colonies and plantations upon the continent of America, and petitions were presented against it by the agents for Connecticut, Pennsylvania, Rhode-Island, Massachusets-Bay, South-Carolina, and New-York; and likewise one from a great many merchants and traders of London, concerned in the trade to our northern colonies; all which were ordered to lie on the table, till the second reading of the Bill, and that the petitioners should be then heard by their counsel if they thought fit. May 1, the Bill was read a second time, and the counsel for the agent of Connecticut heard next day: next day the counsel for the agent of Pennsylvania was heard, and also the counsel for the agent of New York; after which the Bill was committed; and, May 10, the House, by order, resolved itself into a committee of the whole House upon the said Bill, as it did likewise, May 30, when the Bill was very much altered: but difficulties still appearing, notwithstanding these alterations, the Bill was dropt, and the House resolved to address his majesty to give directions "for laying before them, in the next session, an Account of the tenor and amount of all the Bills of Credit, which had been created and issued in the several British colonies and plantations in America, as well those under proprietors and charters, as under his majesty's immediate commission and government, that should be then outstanding, distinguishing the amount of the same in each colony or plantation, and the respective times when such Bills so outstanding were issued, with the amount of the said Bills in money of Great Britain, both at the time when such Bills were issued, and the time of preparing the said account; and also the times fixed for the calling in, sinking, and discharging such Bills, and the funds appropriated for that purpose."

*Proceedings on the African Trade Bill.*] Another Bill, that met with the like fate, was that "For extending and improving the Trade to Africa." As this trade was of the utmost consequence to the trade, plantations, and manufactures of England, and as the Company was in no condition to support their forts and settlements there, so early in the session as the 22nd of December, the Company presented a Petion to the House, setting forth a brief account of their history and circumstances, and praying the House, on behalf of themselves and their creditors, to take the premises into consideration, and grant such lasting encouragement to the petitioners, as might enable them to pay their debts, and to keep and maintain their said forts and castles in a defensible condition, for the protection of a free and open trade of all his majesty's subjects to the coast of Africa, or to grant the petitioners such other relief in the premises, as to the House should seem meet. At the same time the Chancellor of the Exchequer acquainted the House, that his majesty, having been informed of the contents of the said Petition, recommended it to the consideration of the House.

The Petition, however, was only ordered to lie on the table; and, January 19, the creditors of the said Company presented a Petition, representing, that the Company's forts and settlements, which by parliament, and sundry Resolutions of that House, had been declared necessary for the protection of the British trade to Africa, had, for many years last past, been in great measure supported and secured by the stores, goods, and merchandizes, supplied to the said Company by several of the petitioners; that the repeated aids

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granted to the said Company by the public, had proved an inducement with most of the petitioners to intrust them, which they would not otherwise have done; and that the substance of the said Company being reduced to the single property they had in the said forts and settlements, the petitioners, whose private fortunes had been thus employed for the public good, were in danger of losing their just demands, without the generous interposition and assistance of the legislature; and therefore praying the House to take their deplorable case into consideration, and grant them such relief therein, as to the wisdom and equity of parliament should seem meet.

This Petition was likewise ordered to lie on the table, and no further notice was taken of the affair till the 9th of February, when a Petition was presented to the House by several merchants of London, American planters, and others, interested in, or trading to Africa, and the British colonies and plantations in America; setting forth, in a particular manner, the great importance of the trade to Africa; and that the said trade could not be supported without maintaining the Company's forts and settlements; and therefore, praying the House to take the premises into their most serious consideration, and to take such methods as they should judge most proper and effectual for the preserving, extending, and protecting this most valuable branch of the British trade and commerce.

This Petition also was ordered to lie upon the table, and no one step was taken in the affair till the 7th of March, when it was resolved, that the House would on the 16th, resolve itself into a committee of the whole House, to consider of the state of the trade to Africa. In the interim, a Petition of the merchants, and others interested in the trade to Africa from the port of Liverpool, was presented, alledging, that in the opinion of the petitioners, the best security and protection of our trade to the coast of Africa, from pirates or other enemies, must always principally depend on his majesty's ships of war, frequently visiting, properly stationed, and timely relieved on that coast; and that, whereas forts and settlements on that coast were generally esteemed necessary, as marks of sovereignty and possession, to prevent our rivals from the pretence or claim of any exclusive right of trade, by reason of the forts and settlements they then had, or might afterwards be possessed of, such forts and settlements, in the opinion of the petitioners, would prove a burthen and nuisance in the hands of any joint-stock company, whose private interest has and ever will be found incompatible with the interest of the separate and open trader; and therefore, praying that our present forts and settlements upon the African coast might be taken into his majesty's immediate possession, and supported by the public, for the general good of the British trade; or if this could not be obtained, that the care of them might be committed to the merchants trading to that coast, in such manner as to the House should seem meet, not thereby to acquire any other advantage or right in the said trade, but what shall be in common with all his majesty's subjects. This Petition was referred to the committee appointed to consider of the state of the trade to Africa; and the same day a Petition of the like purport from the master, wardens, assistants, and commonalty of the society of merchants adventurers within the city of Bristol, under their common seal, was presented to the House, and referred to the same committee.

A very material circumstance in this trade being thus contested, the committee was put off till the 11th of April, when the House resolved itself into the said committee, and on the 13th Mr. alderman Bethell, the chairman, reported the Resolutions of the Committee, which were agreed to, and were as follow:

1. "That the trade to Africa ought always to remain free and open to all his majesty's subjects. 2. That it ought never to be taxed with any duties whatsoever, for the support and maintenance of any forts or settlements there. 3. That British forts and settlements on that coast are necessary to be maintained, as marks of the possession of Great Britain in those parts, and may, under proper management, be rendered useful to the traders in general. 4. That in order to carry on the African trade in the most beneficial manner to these kingdoms, all his majesty's subjects whatsoever trading to Africa, be united in an open company, without any joint stock or power, to trade as a corporation, under proper regulations, and that the forts and settlements upon that coast, be put under proper management and direction."

Pursuant to these Resolutions, a Bill was ordered to be brought in. As the forming of such a Bill was a matter of some

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difficulty, it was not got ready till the 4th of May, when it was read a first, and ordered to be read a second time; and next day the African Company presented a Petition, setting forth their right to the coast of Africa, &c. and therefore the petitioners, fully relying on the justice of the House, that they should not be deprived of their property without an adequate consideration, prayed that they might be heard by themselves or counsel before the said Bill should pass that House. Which Petition was ordered to lie on the table.

May 9. The creditors of the said Company presented a Petition, containing some complaints against the management of the Company, and offering to surrender their right to whomsoever the wisdom of parliament should judge fit; and praying, that their debts might be enquired into, and that the equivalent to be granted for the Company's possessions might be secured and applied, in the first place, for their benefit. Upon this Petition, which was ordered to lie upon the table, the House ordered the Company to lay before it a list of their debts, with the times when contracted, together with a copy of their charter, and two remonstrances from their creditors, mentioned in the said Petition.

May 12. The last mentioned Petitions were referred to a committee of the whole House; and it was resolved, That the House would on the Tuesday seven-night, resolve itself into the said committee, which was instructed to admit the Company to be heard by their counsel upon their said Petition, if they thought fit. After which the said Bill for extending and improving the trade to Africa, was read a second time, and committed, to a committee of the whole House for that day fortnight.

May 22, The above-mentioned papers were laid before the House by the Company; and next day the House resolved itself into a committee upon the Company's said Petition, as it likewise did on the 26th; and on the 30th, Mr. alderman Bethell, the chairman, reported the Resolution of the committee, which was agreed to, and was as follows:

"That a reasonable compensation be given to the Royal African Company, whenever they shall be divested of their charter, lands, forts, castles, slaves, and all other effects thereunto belonging; and that such compensation shall be in the first place applied for and towards the payment of the *bonâ fide* creditors of the said Company."

June 6. The Bill was read the third time, passed and sent to the Lords; but in that House such weighty objections were made to the whole scope of the Bill, that it was dropt, and in lieu of it, their lordships resolved upon an Address to his majesty, "That he would be graciously pleased to direct the commissioners for trade and plantations, to prepare a scheme for the better securing, improving and extending the trade to Africa, and to lay the same before both Houses of Parliament, at the beginning of the next session of parliament; and in the mean time, to give such directions for preserving and securing the forts, castles and settlements upon the coast of Africa, belonging to Great Britain, as his majesty in his royal wisdom shall judge proper; and that his majesty would be pleased to direct the commissioners for executing the office of Lord High-Admiral of Great-Britain to appoint proper persons to inspect and examine into the state and condition of the said forts, castles, and settlements; and also of the military stores, castles, slaves, canoes, and other vessels belonging to the Royal African Company, and to report, with all possible dispatch, how they should find the same."

*Proceedings on the Bill for encouraging the British Fisheries.*] A third Bill, that underwent the same fate, was one 'for the encouragement of the British White-Herring and Cod-Fisheries.' This affair was introduced into the House of Commons February 8, when a Committee was appointed to consider of, and report to the House, the State of the British Fishery. Upon a particular Report from this Committee, was founded the Bill afterwards passed into a law for a Fish-Market in Westminster; and upon another particular Report was founded the Whale Fishery Bill likewise passed into a law.

May 11. Several merchants, traders of the city of London, in behalf of themselves and others, the merchants and traders of Great-Britain, presented a Petition to the House, setting forth "That, on a mature and deliberate enquiry into the nature of the British Herring and

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island Cod-Fisheries, they conceived, that the same might be carried on with eminent advantage to the trade and navigation of these kingdoms, and, if established on right principles, conducted with skill and integrity, and powerfully supported, was capable of answering every beneficial purpose, that could be proposed by any new scheme of commerce, the civilizing of his majesty's highland subjects, the increasing of the vent of our staple-manufacturers, the multiplying of seamen, the employing a vast number of industrious and otherwise helpless poor, lessening the parochial incumbrances, easing the public taxes, and improving the national wealth; and therefore praying the House to give such encouragement for carrying into execution this invaluable branch of commerce, in such form and manner, as to the House should seem meet."

This Petition was referred to the committee appointed to consider the state of the British fishery; and, May 23, general Oglethorpe, the chairman, made a report, which, after being read, was referred to a committee of the whole House. On the 30th, the House resolved itself into the said committee, and their Resolution was the same day reported by their chairman, and agreed to by the House, as follows: "That the carrying on the British herring and cod fisheries will be of eminent advantage to the trade and navigation of these kingdoms, and is highly worthy the consideration of parliament, and deserves proper encouragement."—Pursuant to the said Resolution a Bill was then ordered to be brought in. The Bill was accordingly presented to the House on the 2d of June; and after being read a first time, was ordered to be read a second time; which was on the 6th, and committed to a committee of the whole House for that day sevennight, on which day the parliament was prorogued, and the Bill was thereby lost.

*The King's Speech at the Close of the Session.*] June 13. The King came to the House of Lords, and put an end to the session with the following Speech:

"My Lords and Gentlemen,

"I come now to put an end to this session of parliament, which is become the more necessary, by reason of the advanced season of the year.

"The definitive treaty of Aix-la-Chapelle having been, by my order, laid before you, several months ago, you have all been fully informed of the terms and conditions on which it was made; and have already had the satisfaction to see them carried into execution, by the several contracting parties, with great punctuality and good faith, so far as the time and distance of place would admit. Nothing now remains, but to preserve and improve the peace so happily re-established. All the powers concerned have declared themselves, in so clear and friendly a manner, on this subject, as leaves no room to doubt of their sincere disposition to render the peace lasting in all parts. My earnest desire to promote the welfare of my own subjects, and the general tranquillity of Europe, will make me exert my endeavours for the same good end, by steadily adhering to the engagements I have entered into, and cultivating the most perfect union and harmony with my allies, upon whose ready concurrence in all proper measures for that purpose, I have the greatest reason to depend.

"It is with great satisfaction I have seen part of this session employed in considerations for advancing the trade and navigation of my kingdoms. I hope, at your next meeting, you will be able to perfect what has now been begun, particularly by taking the proper methods to render our naval force the most useful and serviceable, which is so essential to the protection of our commerce, and to our security in all times.

"Gentlemen of the House of Commons,

"I return you my thanks for the supplies you have granted me, and for the attention you have shewn to maintain the public credit, which I rejoice to see in so flourishing a condition at the end of an expensive, though necessary war. The readiness with which you have enabled me to satisfy the demands of my allies, is very agreeable to me, and cannot fail to produce the best effects.

"My Lords and Gentlemen,

"Let me recommend it to you to improve the advantages of our present situation for the quiet and stability of my government, and the true interest and happiness of my people; and, in your several countries, to promote such principles and dispositions as may be most conducive to those desirable ends."

Then the Lord Chancellor, by his majesty's command, prorogued the parliament to the 3rd of August. It was after-

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wards further prorogued to the 16th of November.*

## THIRD SESSION
### OF THE
## TENTH PARLIAMENT
### OF
## GREAT BRITAIN.

*The King's Speech on Opening the Session.*] November 16, 1749. The King opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"It is with particular pleasure that I now meet you in parliament, at a time when the complete re-establishment of a general peace has restored to my people the blessings of quiet and tranquillity. The good effects resulting from hence do already appear, in the flourishing condition of our commerce, and the rise of the public credit; which naturally lay the surest

* "The government of England, at this time, were chiefly busied in concluding the means of reaping the full benefit of the newly concerted peace, and checking some insolent, ill-judged attempts to disturb the tranquillity at home. Trade was restored to its former channels; great progress was made in reducing the army, and a scheme, which was afterwards put in execution, was formed by Mr. Pelham for reducing the legal interest upon the public debt.

"But an unhappy riot, sometime before this, happened at Oxford, where some young men, by no means remarkable for any thing but their irregularity, were guilty of several treasonable practices, particularly in drinking the Pretender's health. The vice-chancellor and heads of houses, with the proctors of the university, published a declaration of their sincere abhorrence and detestation of such factious and seditious practices, and also of their firm resolution to punish all offenders, of what state or quality soever, who should be duly convicted thereof, according to the utmost severity and rigour of the statutes. In the same declaration, were contained strict orders for the regulation of the university. As no signal punishment, however, had been inflicted upon the offenders, whose offences had been attended with very provoking circumstances, the government sent for three of them into the custody of a messenger of state, and two of them, Dawes and Whitmore, were tried in the court of King's-bench, and being convicted, they were sentenced to walk through the courts with their crimes fixed to their foreheads, to pay a fine of five nobles each, to be imprisoned for two years, and to find security for their good behaviour for seven more. It is certain the government would not have proceeded to this severity, had the young men seemed disposed to have made proper submissions, which they did not. This incident led the ministry into further enquiries into the state of the university, and they thought they had reason to believe, that many of the members were tinctured with Jacobitism. This apprehension went so far, that, when the university had drawn up an Address, congratulating the king upon the peace, it was refused to be received. A motion was likewise argued in the court of King's-bench, upon a rule to shew cause why the counsel for the king shall not be at liberty to inspect and take copies of the statutes of the university of Oxford; but this rule was dismissed upon the judges giving their opinions. An information, however, some time after, was granted by the same court against doctor Purnel, the vice-chancellor, for his behaviour in the case of the rioters, but was afterwards countermanded, some circumstances appearing greatly in his favour upon a cool enquiry.

"The university of Cambridge, at this time, distinguished itself by its attachment to the government and Revolution principles. The duke of Somerset, who had been long chancellor of that university, had been lately dead, and the heads of the university had turned their eyes upon the duke of Newcastle to succeed him. Though nothing was more natural than this choice; and though his majesty himself highly approved of it, yet a handle was made of it to widen the difference between his majesty and the prince of Wales, as if the prince had earnestly desired to be made chancellor of the university. But the matter had gone so far, that the duke did not find himself at liberty to refuse the honour done him; and he was accordingly chosen without any opposition, and installed with the utmost magnificence. But though the writers on the side of the opposition worked up this circumstance with the utmost degree of virulence, in representing the preference given to the duke as an act of insolence against the heir apparent to the crown, yet the public took little or no notice of their invectives.

"The prince of Wales was, at this time, indeed, in a very high degree of popularity, which he daily improved by his affability, and the proofs he gave of his public spirit. Soon after the peace of Aix-la Chapelle, the nation was over-run with all kinds of apparel and furniture of French manufacture. Though the officers of the revenue, by order of the government, proceeded with severity, nay, zeal, against the importers, yet the wearers of those commodities were too frequently seen with them, both at the king's court and that of the prince of Wales. The prince and princess taking notice of this, ordered that no persons coming to their court, and none of their servants or domestics, of either sex, should appear clothed in French manufactures. His royal highness, at the same time, embraced every opportunity of giving his countenance to every

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foundations of an increase of strength, and of lasting prosperity to my kingdoms. I have not failed this summer to make use of every opportunity of cementing and securing the peace; and it is my firm resolution to do every thing in my power for the preservation of it, and religiously to adhere to the engagements I have entered into.

"I have the satisfaction to acquaint you, that I have found all the contracting powers in the definitive treaty of Aix-la-Chapelle, as well as the rest of my allies, in the same good disposition; and have no reason to doubt of their concurrence in the same desirable end: it is unnecessary for me to tell you, that nothing can contribute so much to the continuance and improvement of this happy situation of affairs, as the effectual supporting of that weight and influence which properly belong to the crown of Great Britain.

"Gentlemen of the House of Commons,

"I have ordered the proper officers to prepare and lay before you the estimates for the service of the ensuing year. I desire such supplies only as shall be found necessary for the security and welfare of the nation: and, in that view, I must earnestly recommend to you the maintaining of my fleet in its full strength; and that you would be watchful to improve any opportunity of putting the national debt in a method of being reduced, with a strict regard to public faith and private property.

"My Lords and Gentlemen,

"I have nothing to desire of you, but that you would, with unanimity and dispatch, pursue such measures as may be most conducive to your own real and lasting interest. Whatever good laws you shall propose, for the advancement of our trade and navigation, and for encouraging a spirit of industry in all parts of the kingdom, will be extremely acceptable to me; and you may rest assured, that I shall always look upon the true greatness of my crown and the stability of my government as inseparably united with the happiness and prosperity of my people."

*The Lords' Address of Thanks.*] His majesty having retired, the earl of Waldegrave moved the following Address, which was seconded by the earl of Leven, and agreed to by the House:

"Most Gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your majesty our humble thanks for your most gracious Speech from the throne.

"The good effects resulting to your kingdoms from the complete re-establishment of the general tranquillity, which are so sensibly felt in our commerce and public credit, are the most interesting subject of our congratulations to your majesty. But we should fall short of those sentiments which we feel in our breasts on this occasion, if we did not at the same time gratefully acknowledge, that, under the Divine Protection, these blessings are owing to your royal care and vigilance for the good of your people.

"The same gracious concern for our welfare, and for the repose of Europe, has induced your majesty to improve every opportunity to cement and secure that peace which has been so lately restored to us; and it gives us great satisfaction to be informed, that this good disposition has been shewn by all the contracting powers in the definitive treaty of Aix la Chapelle, and by the rest of your majesty's allies.

"Your majesty's wise admonition, confirmed by past experience, convinces us that the effectual maintaining of that weight and influence which properly belong to the crown of Great Britain is essential to the duration and improvement of this happy situation. Our interest, therefore, as well as our duty, obliges us un-

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scheme of popularity, which, at a time so full of popular projects, had a vast effect with all parties. He even went so far, as to give orders for his children to be instructed to play Mr. Addison's tragedy of Cato, which they did to admiration.

"It must be acknowledged, that it was owing chiefly to those popular virtues of his royal highness, that his court made the figure they did at this time in the nation, which by the disbanding of the army, and restoring the intercourse with France, went great lengths in immorality and luxury of every kind; and, in some instances they were ridiculous even to contempt. In some places, particularly in Staffordshire, the common people were heated, even to madness, against those, who, as they said, had betrayed them, by coming into the service of his majesty. This occasioned several very tumultuous assaults upon some of the first persons of the kingdom; the duke of Bedford and his friends particularly at Lichfield races; and some rigorous measures were once intended for punishing the authors; but they were moderated by the prosecutors, upon the submission of the offenders." Tindal.

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feignedly to assure your majesty of our hearty and zealous concurrence and support in all such measures as shall be most conducive to this great end, as well as to the preservation of the peace.

"To keep up the naval force of this kingdom in full vigour, to protect and advance its trade and navigation, to encourage and extend a spirit of industry in the nation, are objects truly becoming your royal wisdom; and your majesty's perseverance in the pursuit of them will always secure to you the hearts and affections of your subjects. Your majesty could not have given a more acceptable proof of your fixed attention to their welfare, than by recommending these considerations with so much earnestness to your parliament. The least return we can make for so much goodness is, to promise your majesty, on our part, the most ready assistance and concurrence in effectuating the proper means for these salutary purposes.

"Permit us, from the bottom of our hearts, to give your majesty the strongest assurances, that we consider the true greatness of your crown and the stability of your government as being, under God, the solid foundation of the felicity of your people. From this principle we will never depart; nothing being more certain, than that these kingdoms can never be happy, but in the preservation of your sacred person, and the security of the Protestant Succession in your royal family; which we are determined always to defend and maintain."

*The King's Answer.*] His majesty gave this Answer:

"My Lords,

"The assurances you give me, in this dutiful and affectionate Address, are such as deserve my most hearty thanks. The sentiments which you express concerning the present situation of affairs are extremely agreeable to me, and cannot fail to give great satisfaction both at home and abroad."

*Debate in the Commons on the Address of Thanks.**] The Commons being returned to their House,

Mr. *Charles Townshend* moved, "That an humble Address be presented to his majesty, to return him the thanks of this House for his most gracious Speech from the throne; to congratulate him on the complete re-establishment of a general

* From the London Magazine.

The following short Account of this Debate is from the Gentleman's Magazine.

"*A Member of Parliament to his Country Friend.*

"Our Address stands in the terms moved for by Charles Townshend, and seconded by sir Danvers; their arguments for it turned on the benefits of peace, compared with the necessity there was for it, on all sides, his majesty's prudent admonition and measures, and the good disposition mentioned; on which I thought they dwelt too long. Some not well weighed objections kept us longer, but gave the great man occasion to open his budget, and to triumph a little. The objections turned on the following topics. Sir John Hynde Cotton demanded, how the peace could, in any sense, be called 'complete,' without the point of 'no search' being agreed to, which was not yet obtained, though both Houses voted, 'no peace,' until it was? Lord Egmont asserted, that the whole was fallaciously expressed, and might prevent œconomy in his majesty, believing the nation was in a flourishing condition, which was far otherwise, and our commerce depressed, the treaties concerning it being incomplete; nor was our credit high, our ships being seized, and treaties being entered into, contrary to our interest, [Denmark and Sweden, Sardinia and Spain] and that it is imprudent to publish a design of lessening public interest, insomuch as monied men might take advantage of it; but it should be kept secret, and done at once. I forget his words.

"Mr. Pelham, as I said before, took occasion to open and defend the scheme of reducing the interest of part of the national debt. He observed, that it was the indispensable duty of the servants of the crown and the public, to endeavour, as soon as ever it should be found practicable, to ease the nation of its great debts, by consulting with persons of skill, and those of great property in the funds, and publishing the method for general approbation; but as to its being kept private, he would never desire to be so self-sufficient, as the noble lord would be, if, when he comes to be a minister, trusting entirely to his own great judgment, he should pronounce, all at once, 'sic volo, sic jubeo,' so I will have it. That, as within three years the 3 per cents. had risen gradually from 75, and now were at 101, he thought it a demonstration of the rise of public credit; and as an instance of the flourishing condition of commerce, the duties on imports had added to the sinking fund one million in about nine months; and at the same time, for the great quantity of grain exported, there had been paid for bounties 221,000*l.* That, as he should ever have a regard to those who had advanced their money to serve the government, he hoped that a fair, honest and equitable method would be found out to reduce the national debt; a method consonant to parliamentary faith, and also agree-



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peace, whereby the blessings of quiet and tranquillity are restored to his people: and to express our satisfaction at the good disposition of all his majesty's allies, as well as of the contracting powers in the definitive treaty of Aix la Chapelle, to continue in, and preserve, so desirable a situation, from whence we have not only the comfortable prospect of future ease, but may likewise promise ourselves, through the flourishing condition of our commerce, and the natural rise of public credit, a gradual increase of our national strength; to acknowledge his majesty's wisdom in recommending to us the reduction of the National Debt, as an object worthy of our most serious attention: and to assure his majesty, that we will apply ourselves, with all possible diligence to find out the properest means to accomplish so great and necessary a work, with the strictest regard to public faith and private property; to promise his majesty, that this House will grant to his majesty such Supplies as shall be found necessary, for the security and welfare of the nation, which cannot better be provided for than by maintaining the fleet in such a condition as may enable his majesty to preserve that weight and influence which properly belong to the crown of Great Britain; and that we will do all that in us lies to encourage a general spirit of industry, and for the advancement of our trade and navigation; and to assure his majesty, that his faithful Commons are fully sensible that the present and future happiness and prosperity of these kingdoms depend, under God, upon the stability of his majesty's government, and the succession established in his royal family."

This motion being seconded by sir Danvers Osborn,

Lord *Egmont* rose and said:*

"Sir; there is nothing more inconsistent with the dignity of parliament,

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able to the creditors themselves; at least such of them as are reasonable. That the method proposed, is, to give notice, according to the act, that after one year, the funds bearing 4 per cent. interest, should be reduced to 3½, and such of the creditors as refused to accept of that interest, to be paid off; to continue seven years at 3½, and then to be reduced to 3 per cent. That it would be a considerable advantage for every proprietor to continue 100*l.* at 3½ per cent. rather than be paid off, because the 3 per cents. being at 101, the person paid off must add 20*s.* to purchase the same stock in them; therefore, if he does not receive his 100*l.* he will have a better bargain, and may sell it for more. That as not one word had been offered to be altered in the Address moved for, though said to be all so very faulty, it must be taken for granted that it did not really want amendment. As to the vote not to make a peace, unless 'no search' was agreed to, he was far from commending such vote: it was within memory that a parliament voted no peace, while any part of the Indies was left to Spain, and yet the peace of Utrecht was made in the midst of victory, and that brave or rather rash vote not regarded. But, he hoped, the parliament would never pass such negative votes, since it was impossible that times and circumstances could be foreseen.

"To this sir John Hynde Cotton replied, that the parliament, which agreed to that peace, had the treaty laid before them, and were consulted upon it; but in this peace, the greatest indignity was put on them, and the treaty never shewn them, though sitting, and a motion made for it. Mr. Pelham answered, that though the ministers did lay that treaty before the parliament, and got their consent, it was well known how it was obtained; and, indeed, such consent did them no service: which was a good reason why their example was not followed. Young Horace Walpole answered the remarks about the new treaties, by observing, that they were treaties of peace and friendship, and the more such treaties, the more harmony, the more reason to conclude, that the peace would be general and permanent.

"P.S. The 4 per cents. rose upon this opening, and so your fears were quite groundless."

* "November 16. The session of parliament opened with a very modest Speech. The Address, moved by Mr. Charles Townshend, and seconded by sir Danvers Osborne, I thought a very unexceptionable one, and I did not oppose it. Sir John Hynde Cotton did, upon the peace not being complete, as is there said. The earl of Egmont then made a violent and very injudicious speech against the Address, throwing out every thing he could think, or had heard of against the ministry. Lord Baltimore said but little on the same side, and so the matter dropped, and the Address was voted. I went to the Prince before I dined, to give him an account of what had passed: he did not seem to make much account of it, one way or another.

"November 17. Lord Middlesex and Mr. Furnese came to me in the evening. Much serious conversation about the behaviour, in and out of parliament, of the Prince's family, and of our situation in it. Agreed that it must be altered, or that I could be of no use there, and consequently could not stay. Earl of Middlesex undertook to talk to the Prince about it.

"November 22. I went to lord Middlesex, who had been with me in the morning, to tell me that the Prince had sent for him on Sunday, that his royal highness seemed much



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there is nothing can contribute more effectually towards rendering parliaments contemptible in the eyes of the people, than our being so complaisant to ministers, as to affirm facts, or make insinuations, in our addresses to the throne, which are known to be false by every man in the nation who knows any thing of public affairs, and which probably will, in a very short time, be found from experience to be false by the most vulgar and ignorant part of the people. Every man who has ever read or considered any thing of the nature of parliaments must know, that this is a breach of our duty to our sovereign, who should hear nothing but the most undisguised truth from his parliament; and every man will judge that to be the worst sort of complaisance, which is criminal at the same time that it is parasitical. Such addresses have been too long customary at the beginning of every session, so long that people already begin to say, they can never expect any good from parliament; and if this should once become a general and established opinion, it will be easy for the sovereign to lay parliaments aside, and assume a sole and absolute power. Nay, I do not know, but I may live to see instructions sent up from our counties and principal cities, requiring their members to consent to an act of parliament for putting an end to parliaments, and for vesting in the king an absolute power. Such instructions, I know, will never come from our venal boroughs, or from that low and mercenary sort of people, who propose to make an advantage by elections; but there is not an honest man of sense in the kingdom, who would not chuse to be subject to the sole and absolute power of a king without a parliament, rather than to the sole and absolute power of a king with the expensive and oppressive shadow of a parliament.

We should therefore, Sir, for the sake of self preservation, begin to be less complaisant to ministers; but if we agree to what is now proposed, without any amendment, I will say, that no preceding parliament ever exceeded us in ministerial complaisance; for in general, I must observe, that to talk of the treaty of Aix-la-Cha-

heated, having heard from lord Baltimore, that I was in a great passion at what passed in parliament last Thursday, and declared that I would have voted against them, if they had divided upon the Address. Asked if such behaviour was not intolerable. Lord Middlesex assured him, that I talked it over to him, in the House, with great calmness and without the least passion; that lord Baltimore joined us for a little time, and seemed to be of our opinion; that he, lord Middlesex, as well as I, thought that the Address should have gone without opposition, and that lord Egmont's speech was very injudicious, &c.; but the Prince seemed of a contrary opinion, and the conversation ended, by his directing lord Middlesex to quiet me. I went, as I said before, to lord Middlesex in the evening, and we had much talk. Both lord and lady Middlesex were of opinion, that a party was made against me in the family, and that it was best to come to an explanation with the Prince.

"November 24. At half past twelve I went to Carleton House, and in a quarter of an hour was called in. After much talk about this and that, and some idle accounts about the poll at Covent Garden, the Prince made me sit by him, and ran into a long discourse about the army, and then about the reduction of interest, and so let himself into a discourse about the necessity of saying something upon those things in parliament, to feel pulse, and keep the party together, &c. all which was designed as an apology (instead of finding fault) to me, for what had passed the beginning of the session—I took it up, upon his mentioning something about talk, and throwing things out, to expose,

&c. and said that I supposed talk might be right, but people should consider what talk, and if they had any thing to say: that perpetually throwing out things, which one neither understood nor could prove, was, I thought, and always should think, exposing one's self, and not the person aimed at: that it was for his service, to put little things into his power, to be verified beyond contradiction; that he might certainly know, what dependence was to be had upon those they came from, when they informed him of greater matters. Therefore, I would furnish him with one instance; he had heard I was in a great passion about the earl of Egmont's behaviour upon the Address: luckily for me, I had never spoken to any body about it, but to two persons, favourite servants of his royal highness, and particular friends of mine, lords Middlesex and Baltimore; the latter of whom joined us as we were talking of it very calmly; he seemed to be of our opinion, and said, he had told Cotton we should not divide with them: I knew that lord Middlesex had told him how it passed, and if he would give me leave to bring lord Baltimore to him, he would inform his royal highness that there was not the least heat among any of us all. (I knew Baltimore was the author of this dirty piece of cunning). That by this, he might see, if he pleased, what credit was to be given for the future to those, who brought him this piece of intelligence. He thanked me, and was very gracious, and talked it off as well as he could; but in the multiplicity of discourse, owned to me that Baltimore had told him, but meant no harm, &c." Dodington's Diary.

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pelle in the terms now proposed, implies a thorough approbation of that treaty. What this House may do, I cannot as yet know; but if we except placemen and pensioners, and such as expect to be so, I am persuaded, there is not an equal number of gentlemen in the kingdom, that would agree to any sort of approbation of that treaty.

Now, Sir, to come to particulars: will any Englishman say, that a general peace has been completely re-established by the late treaty, when upon the face of the treaty it appears, that notwithstanding the Resolution and Address of parliament, the dispute which occasioned our war with Spain, remains as yet undecided, unless it be said to be decided against us; and that, by not mentioning it in the treaty, we have given it up? If this be the case, if we have tacitly allowed, that Spain has a right to search our ships in the open seas, and to seize and confiscate them when they find, or pretend they have found, on board, any thing of what they are pleased to call contraband goods, we may be assured, that they will for the future interrupt our navigation, and plunder our merchants, as much as ever they did heretofore; and if this should be the consequence of what we have called the definitive treaty of Aix-la-Chapelle, can we have the assurance to say, that the blessings of quiet and tranquillity have been thereby restored to his majesty's people?

Can we, Sir, so much as insinuate, that all his majesty's allies shew a disposition to continue in peace, when it is so well known, that all of them but the Dutch shewed no disposition to conclude it; and that they would not certainly have agreed to it, if our abandoning the alliance by concluding a separate treaty, had not forced them to accept of what was offered? The Dutch, indeed, joined with us in that treaty; but however much they may be said to have been our allies, I am sure they cannot properly be said to have been our confederates in the late war; and as to those who were really our confederates, meaning the queen of Hungary and king of Sardinia, we all know, that their consent was never asked till after it was concluded; and as they could not carry on the war alone, they were forced to agree to what we had done; so that if they shew a disposition to continue in peace, it is not because they have such a disposition, but because, by our conduct of the war, and conclusion of the peace, we have so strengthened their enemies, that it is not in their power to shew a contrary disposition.

Then, Sir, with regard to the other contracting powers in the definitive treaty, by whom must be meant the French and Spaniards, I am amazed how any one can propose to affirm, that they have a good disposition to continue in peace. If they have any such disposition, it is plain that it must be at our expence, and such a one, I am sure, we ought not to call a good disposition. Have the French, with respect to us, as yet performed any one article of what they promised? On the contrary, are they not encroaching upon our rights, by planting the neutral islands in the West Indies? Have they not in a manner declared war against us in North America, by hounding out their wild Indians to fall upon our infant colony of Nova Scotia? Are not the Spaniards behaving in the same manner towards us? Have they not refused to comply with that article in the late treaty relating to our South Sea company? Have they not already begun again to search and seize our ships in the American seas, and to murder or make slaves of our logwood cutters in the bays of Campechey and Honduras?

When we consider these things, Sir,—and where is the Englishman that does not consider them? I will be bound to say, no where, unless it be in the administration: I say, Sir, when we consider these things, can we tell his majesty, can we insinuate to the people, that the contracting powers in the late definitive treaty have a good disposition to continue in, or preserve a peaceable situation? Can we suggest, that we have any prospect of future ease, unless it be by submitting to all the insults and indignities that can be put upon us? And can we call this a comfortable prospect? But this is not, it seems, the only comfortable prospect we are to talk of: we are likewise to say, that we promise ourselves, "through the flourishing condition of our commerce," a gradual increase of our national strength. Can any gentleman say this, who considers how our commerce and manufactures are loaded and incumbered with duties, excises, and customs? During the war, it is true, both our commerce and manufactures began to revive; because by our superiority at sea, we put a stop to the French commerce; and by their drawing such numbers of men from their manufactures, for recruiting their army, they gave an advantage to those of this country. But by the laudable peace

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we have concluded, we have given up both these advantages; and no gentleman who reflects upon the declining state our commerce and manufactures were in before the French war began, will be so ridiculous as to promise himself an increase of national strength, "through the future flourishing condition of our commerce."

Does not every gentleman foresee, Sir, may we not conclude from what we have already felt since the late treaty, that our American commerce will be interrupted by the Spaniards, and that we shall be rivalled, if not under our bad management out-done, in our East India, African, Levant, and Portuguese trade by the French? Then with regard to our manufactures, do not we know that almost all the countries of Europe are now setting up manufactures of their own, whilst ours are sinking under the pressure of our taxes? In all the manufacturing counties I have lately visited, I have heard the masters complain, that the wages of their workmen are so high, and they are so beat down in their price both by the exporting merchant and the retailing shop-keeper, that they can hardly support their families by the profits of their trade. This, Sir, is not owing to their expensive way of living, or to their desire of greater profit than usual, as our courtiers endeavour to insinuate; nor is it owing to any natural cause, it is owing to our having more rivals abroad, and heavier taxes at home, than we ever had in any former time. The labourer must live by his labour, and if by taxes you enhance the price of almost every thing necessary for his support, he must have higher wages, or at least you prevent their being lowered, as otherwise they might have been. And as merchants, shop-keepers, and master tradesmen must have some of the conveniences, as well as the mere necessaries of life, if you enhance the price of both by taxes, you put it out of their power to content themselves with so small a profit as they would otherwise do. It is not therefore high living that makes either the merchant or shop-keeper beat down the price of the manufacturer, but necessity. The former cannot sell our manufactures at a foreign market so dear as formerly, because of his being rivalled by foreign manufactures of the same kind: and at the same time the support of his family is more expensive: the latter cannot sell so dear, or so much in his shop; because the advanced price on provisions makes people more saving in clothes; and yet at the same time he can hardly support his family for double the money it would have cost him fifty years ago.

What must both in this case do, Sir? They must either beat down the price upon the manufacturer, or give over trade, or become bankrupt; and if the manufacturer finds himself so beat down in his price, that he cannot support his family in this country by the profits of his manufacture, he will either give it up, or go and set it up in some other country. This, Sir, is what makes it so easy for our neighbours to set up all sorts of manufactures formerly carried on in this country, and by this, if not remedied, we shall probably be soon disabled from exporting manufactures of any kind. As these consequences of our high taxes are now become so apparent, and so generally dreaded, can we say, that we have any comfortable prospect, from a peaceful situation in Europe, or that we promise ourselves "through the flourishing condition of our commerce," a gradual increase of our national strength. On the contrary, our commerce and manufactures would thrive by a general confusion in Europe, provided we could keep peace at home; but in our present situation, both may probably be undone by a lasting general tranquillity.

Let us look back, Sir, to the reign of queen Elizabeth: she was so far from making it the maxim of her government to preserve the peace of Europe, that she made it the whole business of her reign to sow dissensions, and raise civil broils amongst her neighbours on the continent, without involving herself so far in any one as to run her country in debt. By that means she preserved peace at home, she established our commerce, she established our manufactures; and she opened those springs, from whence flowed that inundation of riches, which with all our late bad management, we have not yet been able to drain off.

But, Sir, that sluice, which was opened many years, is now become so wide, that if any of those springs be diminished, we shall soon be drained quite dry. To talk without a metaphor, Sir, I mean the large public debt now owing to foreigners, who live abroad upon the interest they receive yearly from this nation, which must necessarily carry away from us yearly a great quantity of gold and silver; and if that demand or quantity be not annually supplied by the general balance of our trade, it

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must carry off yearly a part of our national stock of gold and silver, and will certainly in a number of years, carry off the whole; therefore, if what we gain yearly upon the general balance of our trade should be diminished by the decay of our commerce and manufactures, so as not to be sufficient for supplying that demand, we must necessarily in a certain number of years be undone; and I have so many and such strong reasons for dreading this consequence, that I cannot pretend to say I have any comfortable prospect, or any hopes of an increase of national strength, through the flourishing condition of our commerce.

Mr. *Pelham:*

Sir; I have often observed, that what is called 'the people' is a sort of ghost or hobgoblin, sometimes raised by the imagination of the person that is frightened, but more often by the art of him that designs to frighten; and, like other hobgoblins, it always says what the imagination of the frightened suggests, or the art of the frightener devises. Thus, according to the noble lord, the people are quite out of conceit with parliaments, and never expect any good from them, because they are become the mere parasites of ministers. How this can be said by any man in the kingdom, I cannot imagine, when I consider, that two successive prime ministers have but lately been pulled from behind the throne, by the parliament declaring against them; and, surely, no man who thinks that the parliament did right in either of these cases, can say, that he never expects any good from parliament. But the truth is, whatever is said by those we keep company with, we suppose to be *said* by the people; and there are two sets of people in this nation who never, I believe, expect any thing of what they call good from parliament: those are the Jacobites, and the friends of a late minister, who was pulled from the closet by the authority of parliament; and which of these two sets the noble lord keeps company with, I shall leave for him to determine. But as I keep company with neither of them, I am, from what I hear among those I converse with, led to believe, that the people have still a very high opinion of parliaments, and think that they have never been more complaisant to ministers, or even to their sovereign, than by our constitution they ought to be.

This, Sir, is the opinion which, I think, the people have of parliaments; and this opinion, will not, I am persuaded, be in the least altered by our agreeing to what is now proposed; for there is nothing in the proposition now made to us, that can be supposed to imply any approbation of the late treaty of peace at Aix la Chapelle; and if there were, I am fully convinced, that every reasonable unbiassed man in the kingdom would assent to it. There are some, indeed, who never can be pleased with any thing but what is done by themselves; and there are others whose hopes were so sanguine and extravagant, that they could not have been satisfied, even supposing we had met with the most uninterrupted success in the war. But considering the bad success we had met with, and the dangerous situation both we and our allies were in, every reasonable man must allow, that the treaty was rather better than could be expected.

I come now, Sir, to what the noble lord called his particular objections; and first, with regard to the re-establishment of the peace: he may as well say that peace is not re-established, because the limits between the French and us in North America are not expressly pointed out, as to say that it is not re-established, because the dispute between Spain and us, about what shall be deemed an illicit trade in America, is not finally adjusted. In all general treaties of peace, such disputes are left to be adjusted afterwards by commissaries; yet no one ever imagined, that peace was not completely re-established as soon as the general treaty is signed and ratified by all the parties concerned. I could bring examples, Sir, from every treaty of peace for above a century past; but I shall mention only the treaties of Ryswick and Utrecht. By the former the affair of Hudson's bay was left undecided, and commissioners were to be appointed to examine and determine the rights and pretensions of both sides; and not only this, but all the places to be restored on either side, were left to the discussion of these commissioners. And by the treaty of Utrecht, many of us must remember, that the affair relating to Hudson's bay, and the limits between that and Canada; as also the boundaries between the other British and French colonies in North America, were left to be adjusted by commissaries. Yet no one ever supposed, that the peace between the French and us was not completely re-established, both by the treaty of Ryswick and that of Utrecht.

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But as the noble lord would insinuate, Sir, it was, it seems, an unpardonable neglect, not to determine the dispute about illicit trade, because the parliament had resolved and addressed, that no treaty of peace with the crown of Spain should be admitted, unless the acknowledgment of our natural and indubitable right to navigate in the American seas, to and from any part of his majesty's dominions, without being seized, searched, visited, or stopped, under any pretence whatsoever, shall have been first obtained as preliminary thereto. As to this, I must, in the first place, observe, that neither the parliament, nor any human mind can determine, what terms of peace, may and ought to be insisted on, because it depends on the chance of war, which the Supreme Power alone can with any certainty foresee. When we are successful in a war, we not only may, but ought to insist upon more advantageous terms than those we would at first have been satisfied with: on the other hand, when we are unsuccessful, we must accept of terms of peace less advantageous than those we had a right to insist on, and may be so reduced as to be glad of peace upon any terms. Therefore, when the parliament, at the beginning, or during the course of a war, comes to any such resolution, it always implies the condition of our being so successful as to command our own terms; and if this accidental condition does not happen, his majesty ought not in prudence to adhere to the parliament's resolution.

Of this, Sir, we have an example within our own memory: during the war in queen Anne's time, the parliament resolved, that no safe or honourable peace could or ought to be concluded, whilst any branch of the House of Bourbon remained in possession of Spain: yet a peace was afterwards concluded, by which a branch of the House of Bourbon was established in the possession of that monarchy; and the parliament, notwithstanding its former resolution, approved of that peace. For this reason, Sir, I never liked this sort of negative addresses: it looks like the parliament assuming to itself a power beyond any thing that is human, that of directing the fate of war; and as often as it does this, it will never fail of bringing upon itself the ridicule of sensible men.

But in the next place I must observe, Sir, that suppose an article, in the very words of the resolution of parliament, had been inserted in the treaty, it would have signified nothing without some explanatory article, or clauses; for the Spaniards would have always pretended, that the ship searched and confiscated by them, was not sailing to and from any part of his majesty's dominions, but to or from some part of their coast, and had carried on, or designed to carry on an illicit trade; from whence we may see, that this affair must be put under some very particular regulations, in the settling of which the merchants and masters of ships on both sides must be consulted, and great care taken by the Spaniards on one side, that those regulations shall not be such as may put it out of their power to prevent an illicit trade; and by us on the other, that they shall not be such as may give a handle for interrupting our lawful trade in that part of the world. Every gentleman must therefore plainly see, that this affair is of so nice a discussion, that it could not be settled in a general treaty of peace; and indeed, I believe, it is hardly possible to settle it so as that it must not in a great measure depend upon the future *bonne foi* of the parties concerned; for as we cannot but expect, that the Spanish guarda-costas will now and then transgress their duty, we must depend upon the court of Spain for reparation; and if they should refuse, I hope his majesty will always have the power, I am sure he has the inclination, to see justice done to his subjects; therefore we may truly say, notwithstanding any transgressions of this kind that have been or may be committed, that the blessings of quiet and tranquillity are restored to the people of this nation.

With regard to the good disposition of his majesty's allies or the contracting powers in the late treaty, it is impossible, Sir, for me, or even for the noble lord, with all his sagacity, to judge of people's thoughts: we must judge from outward signs, and from those it appears, that all parties concerned have a good disposition to preserve the peace. His majesty's allies have shewn their good disposition, by so readily agreeing to what was stipulated: the French have shewn their good disposition by evacuating all their conquests in Flanders; and the Spaniards have shewn theirs, by evacuating the duchy of Savoy and county of Nice. As to those things that relate more particularly to this nation, they are all of such a nature as to require time either for an adjustment or performance, and both the

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French and Spaniards have shewn an inclination to have them finally concluded as soon as possible.

Thus, Sir, from every thing that appears, and we can judge from nothing else, we may say, that we have the comfortable prospect of future ease: nay, we may go farther: we may say, that we have the comfortable prospect of a lasting future ease. What future accidents may produce, no one can tell; but at present there is no dispute subsisting between any of the powers of Europe, of such consequence as to occasion a rupture; and of all the accidents that may probably happen, most of them are such as we have reason to wish should happen. In this respect therefore, the expressions in the Address proposed are rather modest than otherwise; and as to the present condition of our commerce, I have very different accounts of it from what the noble lord seems to have; for as to our manufactures, I have accounts both from the north and west, and such as I think, I may depend on, which shew, that if workmen's wages be high, it does not proceed from the high price of necessary provisions, but from the great demand for our manufactures and a scarcity of workmen; for in all those countries, they are under a difficulty to get workmen at any price, for supplying the demand. Indeed, it is hardly possible to suppose, that the provisions necessary for the poor can be dear in this country, where there is such a superabundance of corn, that incredible quantities have been lately exported. I should be afraid to mention what quantities have been exported, if it did not appear upon our custom-house books; but from them it appears, that lately there was in three months time above 220,000*l.* paid for bounties upon corn exported: and all our other exports have, since the peace, been more considerable than they had ever been for many years before. Our consumption likewise has increased, as is evident from the produce of the sinking fund for this last year; for in the first three quarters of last year, that fund has produced more than a million; and as to the last quarter's produce, it cannot yet be ascertained, because the accounts are not brought in; but it cannot, I think, be much short of the former.

I must therefore, Sir, from our consumption, as well as our exports, suppose, that the people of this country are generally rich, or in what may be called easy circumstances with respect to their rank in life; some may be poor and needy: the idle, the imprudent, and the extravagant must be so in all countries; but in general I will say, that there is no country in the world, where a poor man may more easily and certainly support himself, and even grow rich; and I am sure, there is no country where poor or rich are more secure of enjoying what they earn by their industry, or save by their œconomy.

As to our duties, excises, and customs, Sir, I am extremely sorry they are so heavy; I am sorry we cannot give an immediate ease to the people. I shall grant they might be of the most fatal consequence both to our commerce and manufactures, if we were rivalled by any country where the people paid no taxes: but where is that country? not in Europe, I am sure, Sir. In France their taxes may not be in appearance so heavy, but they are more heavy in effect: or at least the other burdens and inconveniences, which the people are subject to, fall more grievously both upon poor and rich; particularly that of having soldiers quartered upon them; for the rich buy themselves off generally at a price in proportion to their reputed riches, which is a most beneficial perquisite to the commanding officer of the regiment or company: by this means the common soldiers come at last to be quartered upon poor labourers or mechanics; and this by itself alone is a heavier burden than all the taxes such men are obliged to pay in this country. Therefore, if workmen's wages, or the price of labour be dearer in this country than in France, or any other country, it cannot proceed from our taxes: it must proceed from circulating money being more plentiful in this country than in any other; for the price of gold and silver, as well as every other commodity, must be according to its plenty or scarcity in the country; and consequently, in a country where circulating money is plenty, labour as well as every thing else must bear a higher price than in a country where it is scarce.

I have said, Sir, circulating money; because in countries where their gold and silver is locked up by those that get possession of it, it is the very same as if it were in hidden mines, and can produce no effect till it be made to circulate, unless it be that of keeping the possessor in a perpetual panic. As I take this, Sir, to be the real cause of the high price of labour in this country; and as commerce and

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manufactures will always move by degrees into those countries where labour is cheapest, if not prevented by other causes, I am afraid the circulating of commerce and manufactures from one country to another, is what cannot be prevented by any human regulation: the most we can do is to keep them circulating from one part of our own dominions to another, as long as we can; and the best method for doing this, is to repeal every law, that tends towards establishing a monopoly in any one part of our dominions.

However, Sir, if there be any solid ground for another observation made by the noble lord: if it should come to pass, that our gain upon the general balance of our trade, cannot supply the demand for paying the interest upon our public funds, growing due yearly to foreigners who live beyond sea: I say, if this should come to pass, it would certainly drain us of our current money, and consequently reduce the price of labour as well as every thing else in this country; but, as this is an effect which we ought to prevent, if possible, because it might at last leave us no money at all; I hope, the noble lord himself will approve of acknowledging his majesty's wisdom in recommending to us the reduction of the national debt; and as the rise of public credit, which, I hope, will be acknowledged to be an effect of the peace, has given us an opportunity to lessen the interest payable to the public creditors, which is much the same with paying off so much of the principal, I think we ought to lay hold of it as soon as possible.

I say, Sir, as soon as possible; because we cannot pretend to reduce the interest now payable to any of the public creditors, without offering payment to such as will not accept of a less interest; and as we can make no payment without having given a twelvemonth's previous notice, it will be necessary for us to go upon this affair with the utmost dispatch. For this reason, I shall now mention in general what I have thought on, concerning this important affair. We know, Sir, that some of our public debts bear an interest of but 3 per cent. and others but $3\frac{1}{2}$; but by far the greatest part bear an interest of 4. Now, as to the two first, I think, we cannot propose to reduce them lower at present; but as the 3 per cents. now sell at par, and as the $3\frac{1}{2}$ sell above par, I think we may venture to reduce all the 4 per cents. to $3\frac{1}{2}$ after Christmas twelvemonth, provided we secure them of that interest, and of not being paid off for seven years, and from the end of seven years to pay them but 3 per cent. till redeemed by parliament.

For this purpose, Sir, I shall very soon take the liberty to move for our resolving ourselves into a committee of the whole House, to take into consideration that part of his majesty's Speech, which relates to the national debt; and in that committee I shall propose our coming to a resolution, that such of the proprietors of our 4 per cents. as shall consent to accept of an interest of 3 per cent. to commence from the 25th Dec. 1757, shall in lieu of their present interest, have an interest of 4 per cent. until the 25th Dec. 1750, and after that day an interest of 3*l.* 10*s.* per ann. until the 25th Dec. 1757, without being liable to be redeemed until after that day.

I say, Sir, I shall take the liberty of proposing some such resolution; and if it be agreed to, a Bill will, of course, be ordered to be brought in, which will, I hope, be passed into a law before Christmas next, that the proprietors of our 4 per cents. may see, that the three branches of the legislature concur in resolving to pay off such as shall not agree to accept of a less interest, and consequently may have time to consider what they are to do, before the day to be limited and appointed by the act for that purpose. If we appear to be pretty unanimous in this Resolution, I believe, so great a part of the proprietors of the 4 per cents. will accept of the terms offered, that it will be easy to raise money at 3 per cent. for paying off such as shall not; and for this reason, I hope, no gentleman will oppose what is so apparently for the benefit of his country; for if we do not embrace every opportunity of lessening the public debt, or the interest payable thereon, the nation must at last be undone; and for the same reason I wish, that gentlemen of a melancholy disposition, who forbode nothing but disasters both to themselves and their country, would keep their fears to themselves, and not endeavour to propagate that groundless and imaginary panic, which is the constant inhabitant of their gloomy minds; for, according to a late honest and sensible writer, as well as a celebrated poet, "Fear admitted into public counsels betrays like treason."

Sir *John Hynde Cotton:*

Sir; as the hon. gentleman who spoke last, was pleased to mention the resolution and address of parliament during

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the war in queen Anne's time, relating to the Spanish monarchy not being left in the possession of any branch of the House of Bourbon, and as I am old enough to remember that address, as well as the treaty of peace afterwards made in contradiction to it, I shall give you an account of that affair, in order to shew, what a difference there is between it and what has been lately done in contradiction to the declared sense of parliament. When that address was agreed to, the emperor Joseph was alive, and his brother Charles had been declared by us king of Spain, and was in possession of a great part of that monarchy. But afterwards, that is to say, in 1711, Joseph died, and his brother Charles not only succeeded him in all his dominions, but was chosen emperor in his room. This produced a thorough change in the system of affairs in Europe; for it was inconsistent with the balance of power, and dangerous to the very being of our allies the Dutch, to unite the Austrian and the whole Spanish dominions in one person. But as Charles, then emperor, would neither renounce his right to the crown of Spain, nor join in transferring the possession to any other person, it became also absolutely necessary for the Dutch as well as us, to leave that monarchy in the possession of a branch of the House of Bourbon, under a proper provision for preventing the union of the two monarchies of France and Spain.

Therefore, when the negociation was begun, which ended in the treaty of peace at Utrecht, our ministers had good reason to suppose, that the parliament would depart from their former resolution; yet such a regard had our ministers at that time for parliament, that they would not advise the queen to ratify the preliminaries, till after they had been communicated to, and approved of by parliament. Now, Sir, to compare this case with what is at present under consideration, I must first observe, that the wresting of the whole monarchy of Spain from the House of Bourbon, was neither the cause nor the design of the war; for both the Dutch and we had acknowledged Philip, second son of the dauphin, as lawful king of Spain; and all that was stipulated by the grand alliance, concluded by king William, was, to recover the provinces of the Low Countries, then in possession of France, as a security for the dominions, navigation and commerce of Great Britain and the States General; and the duchy of Milan and kingdom of Naples and Sicily, with the lands and islands on the coast of Tuscany, as an equitable and reasonable satisfaction to his imperial majesty, for his pretension to the Spanish succession. But success turns the head of nations as well as private men, and some little successes we met with at the beginning of the war, so turned our heads, that nothing would then serve us but the entire conquest of the Spanish monarchy, in which madness we were cajoled both by the Dutch and our general, because, whoever lost, they were sure to get by the war.

On the other hand, Sir, the cause of our late war with Spain, was the right they claimed to search our ships in the open seas, and to seize and confiscate them, if they found any thing of what they called contraband goods; and the depredations they had committed in pursuance of this right: and the design of the war was to compel them to give up this pretended right, and to make reparation for those depredations. There was therefore a very material difference as to the foundation of the resolution of parliament in these two cases; and as to the other differences, they stand in need of very little explanation. The ministers, who negociated the treaty of Utrecht, departed from the resolution of parliament, because an alteration in the affairs of Europe had made that departure necessary; but the ministers, who negociated the treaty of Aix-la-Chapelle, could plead no such necessity. The former would conclude nothing till they had obtained the consent of parliament; but the latter concluded every thing without asking the consent of parliament, though it was actually sitting when the preliminaries were concluded and ratified.

Sir, this was shewing such a disregard to the authority of parliament: it was treating the parliament with such contempt, that if it should long pass unresented, I shall not wonder at finding parliaments held in derision by every man in the kingdom. Perhaps it is not now a proper time to resent this treatment; but let our ministers think what they will, I am persuaded, a time will come, when every one concerned in negociating or advising that treaty, will be called to a strict account for their conduct; and till then I do not think we can expect any great regard from the people without doors, or that any who have not a share of the supplies granted by parliament, will expect any good from parliament.



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I am sorry, Sir, that any minister should have cause to compare the people to a bobgoblin, that can frighten none but fools: the time has been when the voice of the people was of some real importance, and when the voice of the people and the voice of the parliament was always the same; but now, I am certain it is otherwise; and I do not found this opinion upon what I hear from the people I converse with: I found it upon the written remonstrances of the people to their members. Do not we know, that the people have for many years been remonstrating against long parliaments, and against placemen and pensioners in parliament? Do not we know, that these remonstrances have been general from all parts of the kingdom? And can we expect, that the people will have any regard for parliament, after finding themselves so much disregarded by parliament? But whatever little regard the people may now have for parliaments, I am sure they will have less, if we tamely allow ourselves to be so much disregarded by those ministers, who, notwithstanding the Address of both Houses, have dared to conclude a peace with Spain, without stipulating a renunciation of that right pretended to by Spain, of searching and seizing our ships on pretence of contraband goods in time of peace.

I am surprised to hear it said, Sir, that it is usual to leave such articles as this to be adjusted afterwards by commissaries. I know it is usual to leave immaterial articles, which require a nice discussion, to be afterwards settled by commissaries; but is there an instance of a peace concluded, without settling that dispute which occasioned the war? Is the right which the Spaniards pretend to, a point which requires or can admit of discussion or explanation? No, Sir. If we enter into any discussion: if we admit of any explanation, we grant the right; for a nonentity can neither be discussed nor explained. The question is simple and plain: have they such a right, or no? If they have not, make them say so; for, I hope, they will never be able to make us say they have. But, I find we still bewilder ourselves in supposing, that there can be such a thing in time of peace as contraband goods; and in not making the proper distinction between ships sailing along a coast, and ships that have been in, or are bound to any port upon that coast. In time of peace there can be no such thing as contraband goods, but there may be such a thing as illicit trade, and to prevent this illicit trade, the ships that are bound to or from any port upon the coast, may be searched while they are upon the coast; but the ship that is in the course of her voyage only sailing along the coast, cannot, unless she has hovered so long upon the coast without any cause, as to give a just suspicion, which may warrant a search but no seizure; for there can be no ground for a seizure, unless by her broken bulk, or by her not having proper bills of lading, or by the free confession of some of her crew, an illicit trade appears; but if nothing like this appears, she cannot be seized, much less confiscated on account of her having on board such goods as are prohibited to be imported into, or exported from the country whose coast she was upon.

If we attend to this, Sir, we must see, that the Spaniards have no right to stop or search any of our ships sailing in the American seas, even supposing they should by contrary winds be kept hovering upon their coast; and much less have they a right to seize any British ship on account of her having on board, what they pretend to call contraband goods, unless it appears by some immediate proof, that she got those goods on board by carrying on an illicit trade with their people. How easy, then, would it have been to have settled this point by an explicit declaration in the treaty, that they had no such right? For without this our navigation can never be free, our merchants can never be safe. Until this declaration be made, I must be of opinion, that peace is not completely re-established, nor can we expect to enjoy tranquillity.

I therefore hope, Sir, that for the sake of unanimity at least, if not for the sake of preserving the little character we have left, this long paragraph about congratulating his majesty upon the complete re-establishment of the peace, will be left out; and I shall heartily concur with the hon. gentleman in acknowledging his majesty's wisdom in recommending to us the reduction of the national debt; as also in any scheme he may propose, for lessening the interest payable to the public creditors.

Mr. *Pelham:*

Sir; the hon. gentleman who spoke last, has endeavoured to shew us several material differences between the case of the treaty of Utrecht and that of Aix-la-Cha-

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pelle; but I must observe, that he forgot a circumstance which will annihilate all the differences he was at so much pains to establish: our disputes with Spain were, I shall grant, not only the chief, but the sole cause of the war between us and that monarchy; but they were so far from being the cause, that they had not the least concern with the war that afterwards broke out upon the continent of Europe; and the putting an end to this war was the chief design of the treaty at Aix-la-Chapelle. The disputes we had with Spain were, no doubt, an affair of some consequence to this nation; and if the emperor Charles 6 had not died at such an untoward conjuncture, we should probably have compelled Spain to settle all those disputes to our satisfaction, in more explicit terms, perhaps, than had been proposed by the address of parliament; because, whilst the empire of Germany remained united under its head, France would not have ventured to assist Spain, in an open manner, against us. But when the union of that empire was dissolved by the loss of its head, and the House of Austria was openly attacked by France and her allies, by which our very being as a free and independent nation came to be in the most imminent danger, our disputes with Spain became an affair of a secondary consideration only, when compared with the war we were engaged in upon the continent; because, if we could restore union to the empire of Germany, and security to the balance of power, we might soon find an opportunity to get all our disputes with Spain settled to our own liking, either by negociation or by force of arms.

The preserving the House of Austria, and preventing the balance of power from being overturned by the empire being rendered dependent on France, was the cause of our engaging in the war upon the continent, and consequently was our chief concern in negociating the treaty of Aix-la-Chapelle; and this was as effectually done by that treaty, as could be expected by any reasonable man, who considered our bad success in the war; but this was what the resolution of parliament had no manner of relation to, and therefore that treaty cannot, in this respect, bear any sort of comparison to the treaty of Utrecht; but if an alteration of circumstances furnished the negociators of the treaty of Utrecht with a pretence for departing from the declared sense of parliament, with respect to the monarchy of Spain, surely the negociators of the late treaty had, from the same cause, as good a pretence for departing from what the parliament had declared to be their sense, with regard to any future treaty of peace with that kingdom; for will any one say, that the strong confederacy that was formed, and the war that soon after broke out against the queen of Hungary, was not a most material alteration in the circumstances of affairs, and such a one as might excuse our ministers for acting contrary to what had been before resolved on in parliament?

Thus, Sir, we may see, that in every case, which will admit of a comparison between the treaties of Utrecht and Aix-la-Chapelle, they are upon a perfect par, except in that of having had the preliminaries communicated to, and approved of by parliament, before they were ratified by our sovereign; and in this respect the negociators of the treaty of Utrecht derived so little benefit from their caution, that it is a good reason why no ministers should afterwards give themselves any such trouble; indeed the caution made use of by the ministers at that time, seems to be a proof of their being conscious, that what they had done was not consistent with the true interest of this nation; for no minister who has a due regard to the prerogatives of the crown, will ever court the parliament to intermeddle in any treaty of peace before it be concluded; because precedents are dangerous things, and, if often repeated, may be made use of as a pretence for depriving the crown of the prerogative of making peace and war, which would be a dangerous innovation in our constitution.

From what I have said, Sir, I hope it will not be supposed, that I mean to derogate from the right the parliament has to enquire into any treaty, after it is concluded, and to censure it, or even to punish those who were the negociators and advisers of it, if upon enquiry it should appear, that the honour, the interest, or the rights of this nation had been sacrificed without any necessity. No, Sir, this is a right which the parliament has, and, I hope, will always preserve; for it can be attended with no public disadvantage, and will always be such a check upon the conduct of our ministers, as will oblige them, for their own sakes, to take care of the honour and interest of their country. But if the parliament should encroach upon the prerogatives of the crown, by assuming

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a right to make peace or war, or to negociate and conclude treaties for that purpose, or by assuming a right to inquire into any foreign transaction, while it is under negociation, it would be of the most dangerous consequence to our national affairs; for no foreign state would ever enter into any negociation with our ministers, or conclude any treaty with them either of a political or commercial nature.

For the same reason, Sir, the parliament neither has, by our constitution, nor ought to assume, a right to prescribe rules to their sovereign, with regard to any future treaty or negociation: I shall admit, that either House may offer their advice; but were it to be supposed, that such advice is in no case to be departed from, without the consent of the House, it would cease being an advice, and would become a rule or law, which we have no right to prescribe to our sovereign, nor will any faithful minister advise him to consider it as such; consequently, we have no reason to suppose, that his majesty's not ordering the preliminaries to the late treaty to be laid before us, proceeded from any disregard to, or contempt of the authority of parliament: and much less have we any reason to resent his majesty's conduct, or the conduct of any of his ministers, in this respect. But if we had, I can see no reason why the present is not a proper time for our shewing that resentment, or for our calling those ministers to a strict account, who negociated and advised the late treaty of peace; and therefore, if any other gentleman will please to move for an enquiry into their conduct, I shall readily concur in the motion.

But supposing, Sir, that the conduct of the ministers who negociated and advised the late Treaty of Peace, could not be justified, what has this to do with the present question? Is there any thing in the words objected to, that can be construed into an approbation of that treaty, or that can forestal the opinion of any gentleman in favour of that treaty? And if there were, do not we know, that an Address upon such an occasion as this, is always looked on as a matter of mere complaisance to our sovereign; and that, notwithstanding any expressions in such an Address, every gentleman is at liberty to form what opinion he will, when matters come to be particularly enquired into? As this is known to be the rule of parliament, there is not an objection that has been made against the Address proposed, but what is a strong argument for agreeing to it; because foreign states form their opinion of the weight of this nation, from the good or ill correspondence they see, or think they see, between the king and his parliament. When that correspondence seems to be well established, this nation can never fail of having a commanding influence upon the councils of all the courts in Europe; but when there is an appearance of any breach between the king and his parliament, the nation itself is despised, and our sovereign's interposition or application neglected.

Now, Sir, let us consider what would be the consequence of our rejecting any part of the Address proposed. Certainly, a suspicion that a breach was presently to ensue between the king and his parliament; and suppose that a general peace has not been so completely re-established as ought to be wished, would our giving ground for such a suspicion contribute towards a more complete re-establishment of a general peace? Suppose, again, that some of the contracting powers in the late treaty had not a sincere disposition to preserve the peace, would such a suspicion tend towards preventing their manifesting their true disposition, either by refusing to perform their engagements, or by making an open attack upon us or our allies? And, lastly, suppose that both our commerce and public credit are upon the decline, would such a suspicion tend to revive either the one or the other? Would it not encourage our rivals in trade to encroach upon us, even by unjustifiable means, in all parts of the world? Would it not discourage our own people, as well as foreigners, from trusting their money in the public funds? And in such a case, would it be possible for us to reduce the interest now payable upon those funds? From hence we may see, Sir, that every objection that has been made against the Address proposed, concludes strongly for our agreeing to it, and that this conclusion grows stronger in proportion to the solidity of those objections; therefore I must suppose, that it will be unanimously agreed to.

Admiral *Vernon*:

Sir; I always suspected, that our war with Spain was an affair which our ministers thought of very little consequence; and I am now confirmed in my suspicion, by what has been told us by an hon. gentleman, who has now, and for a long time has had, his full share in our ad-



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ministration; but as I often differ from ministers, so in this my opinion is widely different; for I think our trade and navigation of more consequence to us, than even that which is called a balance of power in Europe; because upon our trade and navigation depends our naval power, and while in this we are superior to France, we might preserve our independency, even though she were mistress of the whole continent of Europe. Whereas, the moment she becomes superior to us at sea, without any addition to her dominions in Europe, she will have it in her power to place the Pretender here as her viceroy, and thereby deprive us not only of our independency, but of our liberty and religion; which would soon be of more fatal consequence to the balance of power, than any conquest she can make upon the continent of Europe, whilst this nation preserves its independency and superiority at sea.

But, Sir, it is the misfortune of all shallow politicians to adhere to a maxim that has been once beat into their heads, or that has grown up with them from their infancy, though an alteration of circumstances has in a course of time made that maxim ridiculous. France has been long aiming at a power to dictate to all the other princes and states of Europe: for a long time after the accession of Lewis 14, she endeavoured to arrive at this power by extending her dominions and making conquests upon the continent of Europe, which produced against her the triple league in Charles 2nd's reign, the confederacy in king William's, and that in queen Anne's, by which last, the French monarchy was brought very near to its ruin; and in every one of these, this nation was always a principal acting as well as contracting party. From this experience the politic court of Versailles saw, that whilst this nation continued in possession of its beneficial commerce and formidable naval power, their attempting to make any great conquest upon the continent of Europe would always produce a dangerous confederacy against them. For this reason, as soon as their government was re-established by the present king's coming of age, they entirely changed their conduct, and have ever since been endeavouring to acquire the power they aim at, by establishing their manufactures, extending their commerce, and improving and enlarging their colonies and plantations in America.

In this, Sir, they have a double view; for at the same time that they increase their own strength both by land and sea, they diminish the strength of this nation, and stop up, in a great measure, that source of riches, which has been the chief support of every confederacy against them; and all this, without giving such a jealousy to the other princes and states of Europe, as might produce a new formidable confederacy against them. Thus, Sir, they have gone on, and thus they will go on, if not prevented, till they have demolished our commerce, and obtained a superiority at sea; then it will be impossible to form any sufficient confederacy against them, and consequently extremely dangerous for any prince in Europe to disobey the dictates of the court of Versailles; for when once they have got a superiority at sea, even we must be as submissive as any little prince or state in their neighbourhood upon the continent.

I shall readily believe, Sir, what an hon. gentleman was pleased to tell us, that our engaging in the war upon the continent, was to preserve the balance of power, and that in the treaty of peace at Aix-la-Chapelle our disputes with Spain had but a secondary, or rather no consideration; because our superficial politicians have not as yet found out, that the balance of power may more probably be overturned by the French improvements in their commerce and colonies, than by their making conquests upon the continent of Europe. But whoever considers the alteration in the politics of France which I have taken notice of, must allow, that in the late war our business was, to endeavour to possess ourselves of, or destroy all the French settlements in America, Africa, and Asia, and not to allow ourselves to be diverted from this scheme by any conquests they had made, or could have made in Europe; for if they had pushed their conquests against the Dutch, it would probably have united all the princes of Germany against them; and if they had pushed their conquests in Italy, the Spaniards and they would certainly have fallen out about dividing the spoil. In the mean time, we might have made ourselves masters of all the French commerce and colonies, and then not only we should have been more able to support, but the other princes and states of Europe more willing to unite in a confederacy for stripping France of all her modern conquests, and at the same time she would have been rendered less able to withstand such a confederacy.

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As this, Sir, should have been our chief view in the prosecution of the war, so our chief view in treating of peace, should have been the security and encouragement of our own commerce and colonies, and the distressing of those of France; but we ignorantly or wickedly pursued in both a direct contrary maxim, and in the treaty of peace, France readily sacrificed every view that might tend to alarm her neighbours upon the continent, provided we sacrificed every view that might tend to the increase of our own, or the diminution of her commerce, colonies, and commercial settlements; the consequence of which may probably be, such an increase of the French naval strength as will make them an over-match for us at sea, especially if we go on, as we seem inclined to do, in being very frugal with respect to our naval force, which is our only security against a foreign enemy, in order to keep up a numerous land army, which may protect a wicked minister against the people, but cannot protect the people against a French invasion, after they are become our masters at sea.

This, Sir, of becoming our masters at sea, is evidently, at present, the whole bent of the French politics. With this view they are planting all the little islands in the West Indies, and daily increasing the number of their people in Hispaniola. They have now more whites in their sugar colonies than we have in ours; and not content with this, they endeavour by all sorts of allurements to draw the people from our islands, and actually have now many British subjects settled in theirs. With the same view they have made, and what is surprising, we have allowed them to make settlements and forts, all along the back of our plantations in America, from the mouth of the river of St. Laurence to that of the river Mississippi, though the whole country, where those settlements and forts are erected, be expressly comprehended in the charters granted from time to time to our respective American plantations.

By these means, Sir, they may become at last superior to us at sea, and till they have accomplished this, we need not doubt of their using all their address to cajole our ministers with fine words and fair promises; but as soon as they think themselves an over-match for us at sea, they will then begin to talk a different language, and may in a year's time, nay, in half a year, make themselves masters of all our sugar islands; after which it will be impossible for our plantations upon the continent of America, to subsist, without putting themselves under French protection, in order to gain an intercourse and trade with the French islands.

From these considerations we may see, Sir, how careful we ought to have been, in negociating any treaty of peace, to have secured the freedom of our trade and navigation in the American seas; and that as this was the chief cause of our war with Spain, so it ought to have been our chief concern in negociating any future treaty of peace: nay, that this was necessary even for securing a balance of power in Europe; and that if our allies either did not, or would not see this, we should have left them to carry on the war upon the continent by themselves, or with less of our assistance, in order that we might prosecute with vigour the war by sea, both against the French and Spaniards; for in this our ministers cannot pretend that we had not a probable view of success, and therefore they have the less excuse for acting directly against the resolution and advice of both Houses of Parliament.

I shall so far agree, Sir, with the hon. gentleman, that the parliament is not to prescribe rules to their sovereign for his conduct as to peace or war, or negociating such alliances or treaties as may be necessary for either: I shall likewise agree, that when the parliament offers advice, the king is not absolutely bound to follow it; but I will say, that ministers should be extremely cautious of advising their master to act contrary to the advice of parliament, unless they have reason to believe, from an alteration of circumstances, that the parliament would alter its opinion, were it again to be consulted upon the same subject; and in the present case, our ministers had not the least reason to suppose that the parliament would alter its opinion; for the emperor Charles 6 was dead, and the broils which afterwards ensued, foreseen, before the parliament offered any such advice: nay, the advice was offered so immediately after that emperor's death, that it seems to have been offered with a view to prevent our ministers from involving us so far in the expected contests upon the continent, as to oblige us to neglect our own particular contest with the crown of Spain. This, I say, Sir, seems to have been the views of parliament at that time; for as I was then

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serving my country in a distant part of the world, I had no opportunity to know gentlemen's motives for offering this advice at that time; but when I heard of it, I thought it was right; and I still think it ought to have been followed; for if we had peremptorily insisted upon this as a preliminary to the treaty at Aix-la-Chapelle, I believe, the French would, in the condition they were reduced to, have deserted Spain, rather than leave their commerce and their settlements a prey to our superior strength at sea, especially considering the danger they were in, of being, by the loss of one battle in Flanders, disabled from ever recovering any thing we had then, or might have taken from them, during the course of the war, in America; and if from the negociations previous to the treaty at Aix-la-Chapelle, which, I hope, will some day or other be laid before parliament, it should appear, that this point, so far from being insisted on, was never once brought upon the carpet, what will our negociators say for such a total neglect of the advice of parliament?

I have said, Sir, that I hope to see all our negociations, previous to the late treaty, laid before us; to which I will add, that I hope to see all papers, orders, and instructions relating to the war laid before us; and my reason for hoping so, is, because I think an impartial and strict enquiry ought to be made into the conduct of the war, as well as the conclusion of the peace; for as our ministers themselves confess, that the peace is not so good as might have been expected, we can come to no determination as to the latter, without a due enquiry into the former, nor can we enquire into either till we have all necessary lights laid before us. To set up an enquiry before we have this, would be like examining a steward's accounts, without having any of his vouchers before us. Therefore we may easily see, what was meant by an hon. gentleman who spoke some time since, when he said, that it is not now a proper time to resent the treatment we have met with; for we can shew no resentment till we have made a strict and impartial enquiry, which we cannot do till we have all necessary lights before us; but a time may come when the House will insist upon having all such lights, and till then no gentleman who desires to have a strict and impartial enquiry, will move for any enquiry either into the late treaty of peace, or the conduct of the preceding war.

I hope, Sir, I have now shewn the hon. gentleman upon the floor, a good reason why the present is not a proper time for moving for any such enquiry; and as to his paradox, that every objection made against this Address is an argument in its favour, and that the more solidly those objections are founded, the stronger the argument from them is, for our agreeing to what is proposed; this paradox he endeavoured to establish, by shewing the bad consequences that might ensue from a supposed disagreement between the king and his parliament; and if we had such a king as Richard 2, upon the throne, who told his parliament, that to please them, he would not turn out the meanest scullion in his kitchen: * I say, if we had such a king upon the throne, there might be some weight in this argument; but thank God! his present majesty has more wisdom, and a greater regard for the affections of his people: he has shewn, that no man shall continue to be his minister, after he becomes disagreeable to the parliament; therefore our disagreeing to the Address, or any part of the Address, would give no suspicion of an ensuing rupture between the king and his parliament; it would only make foreign courts suppose, that a change was quickly to ensue in our administration; and this, I am persuaded, would be no disadvantage to our negociations at any court in Europe; for our present ministers seem to be actuated by the same pusillanimous, unstable spirit, that suffered the Spaniards to trifle with us, and to plunder our merchants with impunity, for near twenty years together, and the French not only to incroach upon our dominions in America, but to attack our allies upon the continent of Europe, without our daring to give them any interruption.

Now, Sir, if I am right in this conjecture, I am very sure, that the prospect of a change in our administration would contribute towards making the French more diligent in performing what they promised by the late treaty, and the Spaniards more ready to promise what they ought to have been made to promise in the late treaty, that is to say, never to search a British ship on the open seas, nor ever, in time of peace, to seize, much less confiscate a British ship, on account of her having contraband goods on board; and my reason for being sure of this is, because I am fully convinced, that neither the French nor the

* See Vol. 1, p. 185.

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Spaniards have as yet repaired and augmented their navy, so as to be able to contend with us at sea, or in America; consequently, they would presently comply, as soon as they supposed we were to have an administration that would declare war against them, if they did not.

For this reason, Sir, I believe, our disagreeing to the words now objected to, would be an advantage to our present ministers, because, I believe, neither the French nor the Spaniards desire to see them removed; and as they would judge from our disagreeing to these words, that the parliament would begin to take notice of the disputes between them and us, and would force a change in our administration, if those disputes should not soon be settled in some way or other, therefore, in order to pacify the parliament, and to prevent any such change, they would soon yield a partial or seeming compliance with some of our just demands; for I am convinced, there is nothing they are so much afraid of, as this nation's coming under a wise, bold, and enterprising administration, before they think themselves able to face us at sea.

But now, Sir, supposing that our rejecting this whole paragraph in the Address proposed, should be attended with some danger; will any man of honour act contrary to his duty, because his acting according to it, might be attended with some danger? It is our duty to take care of our commerce, and it is our duty not to say any thing in our Address upon this occasion, that may lead our sovereign into a mistake, or the people into a deceitful security. When we consider our duty in both these respects, and reflect upon the present circumstances of Europe, and the present circumstances of this nation, with regard either to its foreign or domestic concerns, can we agree to the words proposed? I hope, we shall not, Sir; for in my opinion, it would be a betraying of the prince upon the throne, a betraying of the people, and a betraying of the commerce of our country.

*The Commons' Address of Thanks.*] The following Address was then agreed to:

"Most Gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great-Britain in parliament assembled, return your majesty our sincere and hearty thanks for your most gracious Speech from the throne.

"We beg leave to congratulate your majesty on the complete re-establishment of a general peace, whereby the blessings of tranquillity are restored to your people; and to express our satisfaction at the good disposition, which your majesty has found in all your allies, as well as in the contracting powers in the definitive treaty of Aix-la-Chapelle, to continue and preserve so desirable a situation, from whence we have not only the comfortable prospect of future ease, but may likewise promise ourselves, through the flourishing condition of our commerce, and natural rise of public credit, a gradual increase of our national strength.

"With a zeal and gratitude indispensably due to the many instances of your majesty's paternal affection for your people, we acknowledge your great wisdom in recommending to us the reduction of the national debt, as an object worthy of our most serious attention; and we assure your majesty, we will apply ourselves with all possible diligence, to find out the properest means to accomplish so great and necessary a work, with the strictest regard to public faith, and private property.

"This House, earnestly desirous effectually to promote the mutual and inseparable interest of your majesty, and your people, will grant such supplies to your majesty, as shall be found necessary for the security and welfare of the nation, which cannot be better provided for, than by maintaining the fleet in such a condition, as may enable your majesty to preserve that weight and influence, which properly belong to the crown of Great-Britain; and we will do all that in us lies, to encourage a general spirit of industry, and advance our trade and navigation, the two great sources of the wealth and strength of this kingdom.

"Your faithful Commons assure your majesty, they are fully sensible, that their present and future prosperity and happiness depend, under God, upon the stability of your majesty's government, and the succession established in your royal family."

*The King's Answer.*] The King gave this Answer:

"Gentlemen;

"I thank you most heartily for this very kind and dutiful Address. You may be assured of all possible returns of affections from me. I have nothing so much at heart, as to see my people flourishing and happy under my government."

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*Debate in the Commons on the Number of Seamen.*] November 27. In the Committee of Supply, lord Barrington moved, "That 10,000 men be employed for the Sea Service for the year 1750." Upon which the following Debate ensued:*

Mr. *Robert Nugent:*

Sir; I shall readily agree with the hon. gentlemen, who have moved for the Number of Seamen proposed to be kept in pay for the service of the ensuing year, that this nation had never more occasion for frugality in every branch of the public expence than it has at present; but it seems to me to be a strange piece of œconomy, to diminish our naval force, when at the same time we are increasing the number of our land forces, or at least not diminishing it so much as by one man less than we had last year. This, I say, Sir, is a strange sort of œconomy, considering our situation; and such a one, as might make people believe, that those who advised and drew up the estimates for our sea and land force, imagined, that they were drawing up estimates for the French government, and not for that of England. In France, indeed, they must keep up a numerous standing army, not only for defending their wide-extended frontier, but to enforce the absolute power of their king; and therefore in time of peace they must be more frugal as to their naval expence, than they can well be as to that of their army; but here in England we have no frontier to defend by a land army, and our sovereign desires not to establish his power upon any thing but the affections of his subjects: our strength consists in our navy; and that we ought chiefly to depend on for offence as well as defence; therefore we ought to be frugal upon any other article of public expence, rather than upon that of our navy.

I shall grant, Sir, that the army, proposed by the estimate now before us, is not sufficient for enabling us to make that figure in Europe which we ought to do; but our present circumstances will not allow us to keep up any greater number; and if our ministers think, that our present circumstances will not allow us to keep up the number now proposed, without such an extraordinary reduction of our naval force, they ought to have proposed our keeping up a much smaller force by land, in order to prevent our being reduced to the necessity of diminishing our force by sea. If they have erred in their judgment and given an imprudent advice to our sovereign, it is our business and our duty to correct that error; therefore, I think, we ought to postpone coming to any resolution upon the present motion, until we have taken the army into consideration; and if we should think it consistent with our safety to take 9 or 10,000 men from the army, we may then keep a much greater force by sea than what is now proposed.

But this is not all, Sir: I am convinced, that the provision now proposed for our naval force will be found insufficient: we must run in debt; and that I shall always protest against. Our ministers, I know, have always been pretty apt to run in debt upon the articles relating to our navy, because they have found that a navy debt is what the parliament will most readily submit to the payment of; and to this condescension our ministers, during the last war, trusted more than any of their predecessors ever did; for though during the last war, we had no enemy to deal with, that could or durst face us at sea, when our squadrons were under a proper command, yet our ministers contracted in that war a larger navy debt than had been contracted during the whole war in queen Anne's reign; and that, though they had not a pretence to say, that the parliament had ever once scrupled to grant whatever sums they thought necessary for the service of the ensuing year.

This, Sir, is a most dangerous practice: it was this practice that first induced us to run in debt; and by the repetition of it our national debt is now swelled to such a monstrous bulk, that I am afraid, it will at last prove our ruin. It necessarily must, if no expedient can be found for paying off a great part of it at once: the increase of the Sinking Fund by the reduction of interest, will not by itself alone now do the business; for though the operation be sure, it is in its nature so slow, that the nation is in danger of expiring before it can work its effect. Besides, we cannot now propose to carry on any war without diverting that sacred fund from the use for which it was at first designed, and to which it ought to have been religiously applied; and from the nature of things, especially in their present aspect, it is impossible to suppose, that this nation can continue in peace, till our public debts have been all extinguished by means of

* From the London Magazine.



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our Sinking Fund; even supposing that such an improbable event should happen, we must gradually diminish our Sinking Fund by abolishing many of those taxes that now lie so heavy upon the poor, and upon all materials for manufacture; by which taxes, our commerce is rendered so troublesome and expensive, that we cannot navigate or carry on commerce so easily or at so cheap a rate as some of our neighbours do; and the price of labour is in this country raised so high, that none of our manufactures can be sold in foreign markets at so low a price as manufactures of the same kind are sold by our rivals.

From this consideration, Sir, I must conclude, that if we do not very soon abolish some of those taxes, both our commerce and manufactures will in a few years be undone; and as this would greatly lessen the numbers of our people, and impoverish those that remained, the certain consequence would be, a considerable diminution, if not a total extinguishment of our Sinking Fund, which would put an end even to our hopes of being ever able to discharge our national debt. Thus, Sir, we are in, what I am sorry to call, a desperate situation: if we do diminish our Sinking Fund, by abolishing some of our taxes, we cannot possibly expect the public tranquillity to last till it has worked the desired effect: and if we do not diminish that fund, by abolishing some of those taxes, the whole of it may sink under the ruin of our commerce and manufactures; and with it we shall lose not only the hopes of being ever able to pay our debts, but also the hopes of being able to preserve our superiority at sea; for no nation ever could support a formidable naval force without an extensive commerce.

This, Sir, should make us diligent in the search of other expedients for discharging a part of the national debt; at least, it should make us careful not to run nto any new debt, by making the estimates for the service of our navy short of what that service may necessarily require, for the sake of gaining a short-lived popularity to our ministers for the time being. A neglect of posterity has always been a complaint against ministers; and with regard to most of them, the complaint has been but too well founded; but of late years our ministers have seemed to neglect not only posterity, but the very next stage of futurity. Present ease has been the only goddess they adored: I shall not say, that they left to-morrow to provide for itself; but I will say, that without any assurance of, or, indeed, any title to, the protection of Providence, they have generally in a great measure left the next year to provide for itself. In order to obtain with ease a present supply, they have brought in estimates, which they knew to be short of what the measures they had resolved on would require, and they have proposed funds, which in all probability would not fully answer what was to be charged upon them. By such means as these they first induced the nation to extend the annual expence beyond the annual supplies; and by degrees they at last brought us to consider only what we might raise upon our credit, without the least regard to what we might annually supply; as if the credit of this nation were inexhaustible, and as if by bringing one war to a happy issue, we could secure ourselves from ever being engaged in another.

Common sense, Sir, must convince every man that reflects, of the sudden destruction that must necessarily at last attend this method of proceeding. I say sudden, because credit, either public or private, generally fails suddenly, and often unaccountably; and the failing of our public credit will be attended with the more unavoidable destruction, because if ever it should happen, it will certainly be when we have the most occasion for it, that is to say, when we are in the heat of a heavy and expensive war, and have just met with some signal defeat, or are threatened with an immediate invasion. I am far from thinking that the credit of this nation is as yet stretched so far, that another pull would make it burst asunder: I believe, that with a cautious and prudent management we might still raise several millions upon our credit; yet we know, that during the last war it was twice brought into great jeopardy: once by ill success, when the Rebellion wore its most dismal aspect; and a second time by bad conduct when, for supporting the war, we were forced to borrow six millions at once, and some people thought to have made a job of the public necessity for enriching themselves and their friends: but they found themselves so far mistaken, that it would have proved the ruin of most of them, if the preliminaries of Aix la Chapelle had not extricated them out of that danger, which their avarice had led them into.

Such gentlemen, indeed, had reason to rejoice at those preliminaries, and I believe,

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Sir, they were the only gentlemen in this nation that did rejoice at them. Even they will not have the assurance to say, that the preliminaries were such as the nation had reason to rejoice at; but, bad as they were, they would not have been near so good, if the conduct of our navy and the bravery of our seamen had not made it as impossible for France to support the war by sea, as it was for us to support it by land, after the conduct of those gentlemen had brought our national credit upon the very brink of perdition. They, therefore, of all men in the world, have most reason to plead for the preservation of our strength at sea, and for treating our seamen in the most humane and grateful manner; but whether they have done so or no, I shall leave gentlemen to judge from the motion now before us, as well as from several other parts of our conduct since that treaty of peace was concluded, which the danger of our public credit, or at least of some persons amongst us, had made necessary, and the success of our navy enabled us to obtain.

As I am always, Sir, under great anxiety for the preservation of our naval force, and as I think our seamen have not since the peace met with that usage they had a right to expect, I could not upon this occasion avoid communicating some of my thoughts upon that subject; but shall not conclude with any motion: only I must desire gentlemen to consider, that we have already disbanded near 30,000 seamen; and if we now add 5,000 more to that number, God knows, how many of them may put it out of our power ever again to press them into our service; for whatever opinion we may have of their merit, every one knows, that it has justice done to it by those who are our most dangerous rivals in naval power, and who now at last seem to have learned, that it is impossible to have either commerce or colonies, without a sufficient naval force to protect them in time of war.

Sir *Peter Warren:*

Sir; as I have not the honour to be let into the secrets of the cabinet, I cannot with any degree of certainty judge of the present circumstances of Europe, or of the views and designs of any of the courts thereof; but from our conduct here at home, with regard to naval affairs, one would think, that our ministers had an assurance of the continuance of the present tranquillity as long as any of the present generation could remain alive. I confess, my hopes are far from being so sanguine; but suppose they were, I should be against reducing the number of our seamen employed in the public service, so low as that now proposed; because I think this nation should always have 15 or 20,000 seamen in pay, for preserving the respect due to the British flag, and for preventing our being under a necessity to distress our trade at the breaking out of a war.

In the time of peace it is not enough, Sir, to keep in constant readiness a few guard ships at home, and a few more upon the coasts of our plantations and colonies in America: even in time of peace our men of war should be constantly traversing the ocean, the Baltic and Mediterranean, and appearing often in the ports of our allies, and of those who may afterwards happen to be our enemies. This would among all nations preserve our character as a maritime power, and it would prevent our merchant ships from being insulted by those of any other nation. Gentlemen who live always at home, or who travel only to see courts, fashions, and curiosities, may not perhaps be sensible of the consequence of preserving a national character in foreign countries; but merchants who reside there, or seamen who trade thither, often feel it, and are often made to smart for it, when it happens to be any way lessened or impeached. Then as to merchant ships sailing in the open seas, they are often exposed to insults, when they happen to meet a foreign ship of superior force; and as most foreign ships, especially the French, sail with a greater number of men than our merchant ships usually do, our ships are more exposed to these insults than those of any other nation. This, Sir, I know by experience; for I have been often in danger of being provoked to do something very irregular, when I have heard of the ill usage some of our merchant ships had met with at sea from a French ship of superior force. But when such foreign ships are in continual danger of meeting with an English man of war at sea, they will be cautious of insulting any British subject, lest they should meet with one that had been informed of what they had done, and consequently meet with immediate punishment. And when our men of war appear often upon the coasts, or in the ports of foreign nations, it will keep them in mind of our naval power, and enforce a respect for every British subject that either resides or sojourns in their country.

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Thus we may see, Sir, what danger and inconveniencies our commerce may be exposed to, by reducing the number of our seamen to that which may be barely sufficient for our guard-ships, and those we ought to have always in readiness at home, in case of any sudden rupture; and from hence we may see the necessity of our keeping, even in time of peace, a greater number of seamen in pay than what is now proposed. But the other reason is still stronger; for we should avoid as much as possible our being ever obliged to bring our trade into any distress, yet this we must always do at the beginning of a war, if we do not keep above 10,000 seamen in the government service in time of peace. Let us consider, Sir, that generally speaking, a man must be bred up at sea, almost from his infancy, to make him an able and thorough-bred seaman; such a man is incapable of gaining a livelihood by any sort of laborious business at land; and if he gets into any sort of easy business, such as that of a shop-keeper or alehouse-keeper, he soon becomes unfit for the sea-service. Therefore, we can never have in the country any greater number of seamen than are in almost constant employment; for if by any accident there happens to be a greater number than can get employment, most of the supernumeraries must go into foreign service; therefore, in time of peace, we should always have in the government service such a number as may be sufficient for carrying on a war, with the addition of a fourth or a fifth part of the number usually employed in carrying on our commerce, coasting trade, and fisheries; for that proportion they may supply by landmen or young fellows, without endangering their ships; but no trading vessel can sail with safety, if she has above a fourth or fifth part of her usual complement that are not able and expert seamen; and consequently, when at the beginning of a war you are obliged to take above that proportion from your trade, you not only bring it into distress, but many of our trading ships into great danger.

To this I must add, Sir, that as every war must necessarily increase the number of our seamen, we should never at the end of a war discharge a great number at once; for by so doing we force a great number of our seamen into foreign service: whereas, if we discharge them by degrees, and detain none in the public service but such as are willing to remain in it, multitudes by little and little get into some way of supporting themselves at land; so that in a few years we may reduce the number in the public service to that which in times of the most profound tranquillity we ought to keep in that service, without laying any of our good seamen under a necessity of going into foreign service, and without giving our seamen in general a distaste to the service of the government; which two advantages would surely be an equivalent for the expence the public might be put to, by keeping for two or three years a greater number of seamen in pay than it had any necessary occasion for.

With regard to the land service, Sir, the case is very different: a common fellow taken from the plough, or from any mechanical employment, may in two or three months, or at least after the first campaign, make as good a soldier as the oldest veteran; and when the war is over, and the regiment he belongs to disbanded, he may directly return to, and get a subsistence by the business he was bred up to. Therefore, though our listing a great number of labourers and mechanics, at the beginning of a war, may raise the price of wages, it can never put an absolute stop to any sort of business carried on at land; and though we should at the end of a war disband a great number of soldiers at once, it can never force any of them into foreign service; for though it would presently reduce the price of wages, yet as this would increase the business, and consequently require a greater number of hands, every soldier so disbanded might get a subsistence by the business he was bred to, and no man can be said to be forced to go abroad, if it be any way in his power to earn a subsistence at home. However, Sir, I cannot but approve of the method taken since the end of the last war, to give employment to many of our disbanded soldiers and seamen, by sending a colony to Nova Scotia. I only wish it had been resolved on sooner; and I hope the same method will be taken at the end of every future war; for that is certainly the most proper time for sending out a new colony.

What I have hitherto said, Sir, was upon a supposition that we have at present a reasonable prospect of a lasting tranquillity: what secret informations our ministers may have, I do not know; but from public appearances, I am sure, we can have no such prospect: nay, I am afraid, that by endeavouring to prolong the peace, we shall accelerate the necessity of a war. During the late long administration we fell

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into the very same sort of error, with regard to our disputes with Spain, as I truly prophesied to our then chief minister; for as I had been much employed upon the coasts of America, I was desired by my friend sir John Norris, to go along with him to wait on sir Robert Walpole, which I accordingly did, and to him I very freely declared my opinion, that if reprisals had been issued upon the very first insult that had been offered to us by the Spaniards in America, we should have had no war, because they would have submitted to make reparation, and to such an explanation of the treaties subsisting between the two nations, as would have prevented any future insult: but that the damages were then so high, and they had been so long in possession of the custom of searching our ships in the open seas, that I believed an open war would be the immediate consequence of reprisals. Soon after this, Sir, I was again stationed upon the coast of America, and was at New York when the orders for reprisals arrived: I received them with joy, and refitted my ship with the utmost expedition; but when I was just ready to put to sea, counter-orders arrived, and it was a long time before I had the satisfaction to receive any fresh orders either for reprisals or hostilities.

Every gentleman knows, Sir, what afterwards ensued; and if I am rightly informed, not only the Spaniards but the French, too, continue to insult us, and to encroach upon our rights in America, notwithstanding the treaty of Aix-la-Chapelle. I say, continue, Sir; for this is not a new practice in either. Before the late war the French had begun their encroachments, and had carried them on without any disturbance from us, till the late war happened, upon another account, between the two nations: I wish we had taken the opportunity of that war to disturb them a little more than we did in America; for long before the war began, they had begun to plant the island of St. Lucia; and they had built a fort not only within the charter, but actually within the limits of the province of New York; of which the governor of that province gave due notice to our ministers here, and desired new instructions upon that head, but never to this day received any; so that the French are now in quiet possession of that fort, and consequently of a part of the province of New York; and I am told they have very lately, that is, since the late Treaty of Peace, begun to build another at the mouth of St. John's river in Fundybay, which is certainly within the ancient limits of Nova Scotia; but I hope proper orders have already been sent to our governor of Nova Scotia upon this head; for it is much easier to prevent building a fort than to demolish it after it is built; and if we are afraid that the preventing of it would occasion a war, we have much more reason to fear that consequence from our demolishing it. In all such cases it is ridiculous to negociate, while they are fortifying: a stop to the fortification should be the article *sine qua non* to a negociation; and this should be an express instruction always given to every governor we send to America, both with respect to the continent, and with respect to the neutral islands in that part of the world.

With regard to the letters of reprisal at sea too, our governors in the West Indies ought always, Sir, to be furnished with a power to issue them when any manifest injustice has been committed in that part of the world, upon the subjects of this nation, by those of any other. The Dutch governor at Curassoa is always furnished with such a power, and is seldom overscrupulous in the use of it, by which means the Dutch ships sail about their lawful business in those seas, with more safety than ours have done for many years; for the more quick you are in resenting an injury or insult, the fewer such you will always meet with; and if you shew yourselves so much afraid of a war, as to delay resenting in a proper and peremptory manner the first insult or encroachment, you may depend upon it, that a war will be the consequence of the first revenge you take; for by such a delay you not only give those you have to deal with an opinion of your pusillanimity, but by submitting to several insults or encroachments, you throw into their hands a subject they think worth contending for by force of arms.

Now, Sir, as the Spaniards, if I am rightly informed, continue their insults, and the French their encroachments, in America, I have reason to fear, that if we do not resolve upon a very speedy and vigorous resentment, an open war will be the certain consequence, unless our ministers are resolved to bear with all the injuries and indignities that can be offered, rather than hazard an open rupture, which I am persuaded they are not; and therefore I cannot but be surprised at the reduction of our naval force now proposed;

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for if we should issue orders for reprisals, or for demolishing the French forts within our limits in America, or upon the islands belonging to us in the West Indies, surely such a great diminution of our naval force is not the way to prevent a war from being the consequence of our issuing such orders; and I hope our ministers do not think of taking a whole year for negociating, while the French are in the mean time fortifying themselves in our territories, and the Spaniards plundering our merchants under pretence of what they call contraband goods.

I am therefore, Sir, so far from thinking, that the hopes we have of a lasting tranquillity, can be a solid foundation for our discharging such a number of seamen, that, I believe, it will contribute towards putting a speedy end to the tranquillity we now enjoy, by encouraging both the French and Spaniards to continue their encroachments and insults, and to declare war against us, if we should begin to shew a proper resentment. Our ministers may, if they please, continue to negociate, but if the Spaniards continue to insult, and the French to encroach, the people will not bear it long; and from the fate of their predecessor, our present ministers may learn, that the most pacific minister may be forced into a war by a brave and injured people. If this should be the issue, which I think it probably will, we shall then to our cost, though I hope not to our ruin, feel the fatal effects of our precipitate frugality, in discharging such a number of our brave seamen; but as I am entirely ignorant of the present state of our negociations either at the court of France or Spain, and as my fears proceed only from public appearances, I shall not conclude with any motion, but with a wish, that our ministers may not allow themselves to be amused with deceitful negociations, and thereby led into a false or ill-grounded security.

The Resolution was then agreed to.

*Proceedings in the Commons respecting the Reduction of the Interest upon the National Debt**.] Nov. 28. The House of Commons resolved itself into a committee of the whole House, to take into consideration that part of his majesty's Speech which related to the National Debt; and the proper officer was ordered to lay before the House an account of that part of the National Debt which carried an interest or annuity after the rate of 4*l.* per cent. per ann., as it stood at the Exchequer at Michaelmas, 1749. And his majesty's Speech and the said account being referred to the committee, they came to several Resolutions which were reported next day, and being, with several Amendments, agreed to, were then as follows, viz.

1. "That any person or persons, bodies politic or corporate, who now are, or hereafter may be, interested in, or entitled unto any part of the National Debt, redeemable by law, incurred before Michaelmas 1749, which now carries an interest after the rate of 4*l.* per cent. per ann., and who shall, on or before the 28th of Feb. 1749, subscribe their names, or signify their consent, to accept of an interest of 3*l.* per cent. per ann. to commence from the 25th of Dec. 1757, subject to the same provisoes, notices, and clauses of redemption, which their respective 4 per cents. are now liable to, shall in lieu of their present interest be entitled unto, and receive an interest of 4*l.* per cent. per ann. till the 25th of Dec. 1750; and from and after the said 25th of Dec. 1750, an interest of 3*l.* 10*s.* per cent. per ann., until the said 25th of Dec. 1757; and no part of the same, except what is due to the East India Company, shall be liable to be redeemed till after the said 25th of Dec. 1757.

2. "That all executors, administrators, guardians, and trustees may subscribe or signify such consent for the several parts

* "This was generally looked upon to be a very bold measure in the minister, and some of his best friends, even the day before the vote passed in the House of Commons, endeavoured to persuade him against it. But he appeared determined, and in a few weeks they approved of his steadiness, as much as before they blamed his obstinacy." Tindal.

"The capital measure which distinguished this session of parliament was the reduction of the interest on the public funds; a scheme which was planned and executed by the minister, without any national disturbance or disquiet, to the astonishment of all Europe; the different nations of which could not apprehend how it would be possible for the government, at the close of a long expensive war, which had so considerably drained the country, and augmented the enormous burthen of national debt, to find money for paying off such of the public creditors as might choose to receive their principal, rather than submit to a reduction of the interest." Smollett.

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of the said debt, for the holding of which their names are made use of respectively.

3. "That all duties, revenues, and incomes, which now stand appropriated to the payment of the said interest of 4*l.* per cent. per ann., respectively, shall continue, and be appropriated and applied to the payment of the respective interest of 4*l.* per cent. per ann., 3*l.* 10*s.* per cent. per ann., and 3*l.* per cent. per ann., in the same manner as the same now stand appropriated to the payment of the said 4*l.* per cent. per ann.; and that the surplusses of the said funds, after the said 25th of Dec. 1750, shall be made part of the Sinking Fund, and applied in the same manner as the surplusses of the said funds are now applicable.

4. "That books be opened at the receipt of his majesty's Exchequer, at the Bank of England, and South Sea House, for receiving the said subscriptions or consent."

Whereupon a Bill was ordered to be brought in pursuant to the said Resolutions; and it was ordered, that for the immediate taking in of the said subscriptions and consent, copies of the said Resolutions be forthwith transmitted to the auditor of the Exchequer, the East India and South Sea Companies, and the Bank; and that they should be affixed at the Royal Exchange, and printed in the London Gazette.

Dec. 4. The Bill was presented to the House by Mr. Fane, being entitled, "A Bill for reducing the several Annuities which now carry an Interest after the rate of 4*l.* per cent. per ann., to the several rates of interest therein mentioned;" which Bill passed through the several forms of both Houses without opposition, and received the royal assent on the 20th.

## 1750.

*Debate in the Commons on the Mutiny Bill.*] January 23, 1750. The House of Commons resolved itself into a committee on the Mutiny Bill. The Clause enacting, "That no officer or soldier, acquitted or convicted of any offence, should be liable to be tried a second time for the same offence, unless in case of an appeal from a regiment to a general court-martial," being read, Mr. Secretary at War proposed adding these words, "and no Sentence given by any Court-Martial, and signed by the President, shall be liable to be revised more than once;" whereupon the earl of Egmont moved, by way of amendment, to leave out the words, "more than once." In this debate, besides the two above mentioned, the chief speakers were, the Chancellor of the Exchequer, Attorney General, Solicitor General, Mr. W. Pitt, and Mr. C. Yorke, for having those words stand part of the motion; and the chief speakers against their standing part of the motion were, lord Harley, Mr. Andrew Mitchell, Mr. Henly, Mr. Morton, col. Madden, Dr. Lee, Mr. Fazakerley, Mr. Nugent, the lord Strange, colonel Lyttleton, colonel Leighton, and general Oglethorpe. At last, the question being put, that the words "more than once," stand part of the motion, it was, upon a division, carried in the affirmative, by 177 to 125. After which the motion was agreed to. The Bill having gone through the committee, and the Speaker resumed the chair, Mr. Morton moved to add in the Amendment to the Oath of Secrecy, the words, "by either House of Parliament;" upon which occasion the following Debate ensued*:

Mr. *John Morton:*

Sir; the Amendment made by the committee to the oath now under our consideration, was an amendment, which, so far as it went, I highly approved of; and I was glad to find my opinion supported by some gentlemen, whose concurrence I shall always be proud of; but even then I did not think the amendment extensive enough. However, I resolved not to propose any further extension of it at that time, because I was apprehensive lest it might have defeated what I aimed at, and because I knew, that a further amendment might be proposed upon the report. I therefore now beg leave to observe the impropriety of our giving a greater power to the courts below, than we reserve for the High Court of Parliament. By the oath, as it now stands, any member of a court-martial may be obliged by any of the courts in Westminster-hall, to disclose or discover the vote or opinion of every particular member of the court-martial, when it becomes necessary to have a proof thereof in any trial before them. But if a question should arise in this or the other House, relating to the proceedings, or the sentence of a court-martial, no member thereof could be desired, much less re-

* From the London Magazine.

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quired, to disclose the vote of any particular member of that court-martial; for, surely, we could not desire a gentleman to make such discovery, when he is bound by his oath not to do so, unless we should assume to ourselves a dispensing power, which, I hope, no parliament, nor any court or magistrate in Great Britain ever will.

I confess, Sir, I was always, and still am against the whole of this Oath of Secrecy. It is an innovation lately brought into our military law; and it is inconsistent with the whole tenor of our laws, and the very spirit of our constitution. With us the courts of justice have always been open, and the judges thereof have delivered their opinions, and passed sentence or judgment in the face of the world. This will always have a good effect in favour of justice; for let men be never so corrupt, let them be never so abandoned, they will always have some regard for their safety, if not for their reputation; and will be cautious of letting the people know, that they have been the tools of oppression, and the dispensers of manifest injustice. But if we once begin to have sentence passed in secret, and under an oath of secrecy, we shall soon begin to have the whole trial carried on in the same manner; and this smells so strong of the court of inquisition, and of those terrible recluse courts, which are in arbitrary governments the instruments of tyranny, that it must give a just alarm to every gentleman who has a regard for our constitution, or the happiness of posterity.

One of the arguments made use of, Sir, for this oath of secrecy, is so far from being an argument in its favour, that it is an unanswerable one for our returning to the regulation of 1713, by which it was provided, That no punishment to be inflicted by the sentence of a court-martial, should extend to life or limb; and, with respect to commission-officers, I think, the restraint should be carried even to that of corporal punishment; for that of beaking, suspending, or fining a commission-officer, is, I think, the highest punishment we ought to allow a court-martial in time of peace to inflict; and in time of war we have no occasion for a Mutiny Bill, because his majesty's prerogative then takes place, by which he may not only appoint courts-martial, but may furnish them with such powers as he thinks necessary.

When I thus talk of the argument brought in favour of this oath, I believe every gentleman will suppose I mean that by which it is said, that as officers depend for their preferment, as well as for their continuance in commission, upon the arbitrary will of the crown, or rather of the prime minister, or general for the time being, they may, when upon a court-martial, be determined by the influence of that minister or general, to acquit, or condemn and punish, not according to justice, but according to his will and pleasure. This they allow to be a danger that ought to be apprehended, and this danger they pretend to obviate, by obliging every officer, upon oath, not to disclose the vote or opinion of any particular member of the court-martial.

In the first part of this argument, Sir, I most heartily agree with those gentlemen: we know how liable our common-law judges were to ministerial influence, when their commissions depended upon ministerial pleasure; and, therefore, I shall most readily allow, that the danger suggested by those gentlemen, is far from being imaginary; but I cannot agree in the last part of their argument; for I cannot suppose, that this danger will be in the least obviated by the oath of secrecy proposed. We know how little an oath is regarded by mankind, when it happens to be inconsistent with their interest, and when they may break it not only with impunity but advantage. No officer will, therefore, notwithstanding this oath, suppose that his way of voting at a court-martial can be hid from the crown, or the general, or minister for the time being; consequently, the members of a court-martial will still continue to be under the same influence they are now. Nay, I think they will be more so; because, as their way of voting will by this oath be kept hid from the world, they will with the more freedom abandon themselves to that influence, and ministers, or generals, will with the less restraint make use of it. At present, or at least before this oath was introduced, a man's way of voting at a court-martial was publicly known; and if any one voted against what was supposed to be the inclination of the minister, or general, and was afterwards dismissed the service, or disappointed in his preferment, the world of course supposed, that it was on account of his having voted according to conscience, which was an imputation that a wise minister or general would chuse to avoid; but no minister or general can now be in danger of any such impu-

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tation, and, therefore, they will with the more freedom dismiss, or disappoint, any officer who dares to vote at a court-martial contrary to their direction.

This argument is, therefore, Sir, what may be called *argumentum ad hominem*, for restraining courts-martial, in time of peace, from inflicting any punishment extending to life, or limb, but can be no argument for the oath of secrecy proposed; and the other argument, that it will prevent officers being exposed to the resentment of one another, for their way of voting at a court-martial, is equally frivolous: nay, I think it is worse; for it carries with it an imputation, both upon the officers of our army, and upon our laws. Can we suppose, that any officer of our army would be afraid of doing justice, lest he should thereby incur the resentment of another officer? Can we suppose, that our laws would permit any officer to shew the least sign of such a resentment with impunity? This is, therefore, forming to ourselves an imaginary evil, and making use of that as an argument for introducing a real evil, and an evil which will be a precedent for introducing the worst of all evils, which is that of a secret and arbitrary tribunal; for, does not every gentleman see, that both this and the former argument are equally strong for keeping secret the whole proceedings of a court martial? And having once established such a secret military tribunal, it will be a precedent for establishing such secret tribunals in all trials at common law. May it not be said, that our common law judges will be the less liable to influence, the more secret their proceedings are kept? Do not we know, that our common-law judges are liable to resentment, and some have actually suffered for the decrees they have made, or the judgments they have pronounced? But such arguments will never, I hope, prevail with us to establish an inquisitorial method of proceeding in any of our courts at common-law.

But, Sir, as I am not to oppose this oath of secrecy in general, I should not have taken up your time with saying so much against it, if I had not thought it necessary for inducing gentlemen the more readily to agree to the amendment I am to propose; for if there be no evident necessity for the oath itself, there is the less danger in any exception that may be thought proper to be made to it. The committee have already introduced one exception, with regard to courts of justice; and as we seem inclined to agree to that exception, it will look extremely odd, if we do not now introduce another, with regard to the two Houses of Parliament. Is it impossible to suppose, that a court-martial may behave so as to deserve to have their proceedings enquired into, and punished by parliament? Suppose then, that a court martial should make itself an instrument of oppression in the hands of an arbitrary, cruel, and tyrannical general; and should by his direction proceed, in an arbitrary manner, to pass a most unjust sentence. Suppose such a court martial should condemn a colonel to be shot for mutiny, because he did not march at the head of his regiment, according to his general's orders, to prevent our assembling in this House: would not such a court-martial deserve to have their conduct enquired into and punished by parliament? But how should we enquire, whom could we punish? We might, perhaps, obtain a proof of the sentence; but we could have no proof as to those that agreed or disagreed to it; therefore, we must either condemn or acquit by the lump; and though this sort of lumping justice was once practised by parliament, I hope, the precedent will never again be followed.

Suppose again, Sir, that a court martial should by their sentence be guilty of a breach of privilege, against whom could the member complain who had suffered by that breach? He must complain against every constituent member of that court-martial; and supposing we should think it such a heinous breach of privilege, as to deserve a punishment signally severe, we must inflict that punishment upon every one, even though 12 of the 25 constituent members of that court martial had voted against the sentence, and consequently were innocent of the crime; for by the oath, as it now stands, we shall render it impossible for the innocent to make their innocence appear. Can a British parliament agree to any law, which thus confounds the innocent with the guilty, and renders it impossible to punish the latter, without involving the former in the same sort of punishment? The injustice of this is so manifest, that I am persuaded even those who think this oath of secrecy necessary, will be glad of any expedient for extricating them out of this difficulty; and, therefore, I shall conclude with moving, that after the words, "by due course of law," the words, "or by either House



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of Parliament," may be added by way of amendment.

Mr. *Henry Fox:*

Sir; I was one of those who were against the Amendment made by the committee, and I was against it, because I thought it quite unnecessary; for I shall always be against making an unnecessary amendment to any Bill brought into this House. I then thought it unnecessary, and I still think it so; because I cannot suggest to myself a case wherein it may become necessary for an inferior court of justice to enquire who voted for or against any sentence of a court martial; and if the parliament should ever think it incumbent upon them to enquire into the proceedings of a court martial, it would be easy to bring in, and pass a short Bill, for enabling the officers to disclose the opinions of the several members of that court martial, in pursuance of the exception contained in the oath, as it stood when first brought in. This, Sir, was, this is still my opinion, but I shall always readily submit, when I find the majority of this House to be of a contrary opinion; and for this reason I shall not now oppose our agreeing to the amendment made by the committee; but I cannot agree to any further amendment, because I foresee that it would occasion such a number of others, as would render the oath quite insignificant; which may, perhaps, be the design of those who are against the oath in general; but I must beg leave to differ from them in opinion; for, I think, the oath, as it now stands, can be attended with no bad consequence, and will certainly prevent several mischiefs.

As to the danger suggested, Sir, that this oath of secrecy may be made a precedent for introducing the same sort of regulation, with regard to our courts of common law, I must think it altogether chimerical; for the nature of the military law is so very different from that of the common law, and the methods of proceeding in courts martial are necessarily so very different from those in our courts at common law, that no regulation in the one can ever be made a precedent for any regulation in the other. And as this is the only danger I have ever heard suggested, I think we have no bad consequence to apprehend from establishing this oath of secrecy, with respect to the vote or opinion of the several members of a court martial; nor is this without precedent, even in the proceedings of both Houses of Parliament; for the members of both are bound not to disclose what passes in the House; and though, when we hear counsel upon any case, or any point in dispute, we throw our doors in a manner open, yet every one knows, that in both Houses, the doors are shut, and regularly every stranger excluded, when we come to argue and determine the case or point among ourselves.

Now, Sir, with regard to the mischiefs that may be in a great measure avoided by the oath of secrecy proposed, I must first observe, that in human affairs it is impossible to avoid every inconvenience, every evil: all that human wisdom can do, is to chuse the least evil, and not to expose ourselves to a great inconvenience for the sake of preventing a small one. After having premised this, I shall without hesitation agree, that the judges of every court ought to be made as independent as possible. With regard to our common law judges, we have, since the happy Revolution, effected this as much, I believe, as the nature of things will admit. But with regard to the judges upon a court-martial, it is impossible, it would be absolutely inconsistent with the very nature of military service, to render them independent of the commander in chief; therefore we have reason to apprehend, that the vote or opinion of gentlemen in a court-martial may be directed by the influence of the commander in chief, when he resolves to make use of his influence for that purpose. How is this to be prevented? No way I can think of, but by preventing its being known how every particular member voted; and I wish any gentleman could suggest a more effectual method than that of an oath of secrecy.

I am not at all surprised, Sir, that gentlemen conversant in the law should be of opinion, that mankind in general are regardless of an oath. The suggestion is too true, I believe, in all trials at common law, and all disputes about private property; but it is not so with the officers of the army. They must have a little more regard to their character for honour as well as courage, than is necessary in common life; and when the character of an informer is tacked to perjury, they must have a very great regard to the oath they have taken. This will be the case with regard to the oath now under consideration; if any officer should, notwithstanding his oath, disclose to the commander in

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chief, the vote or opinion of any other officer upon a court-martial, he would be looked on not only as a perjured wretch, but also as an informer: no gentleman would then keep him company: no officer would roll with him; by which means he must necessarily be drove out of the army. Therefore it is evident, that officers not only may, but will depend upon their vote or opinion being kept secret from the commander in chief, as well as every one else, and consequently, will not be so much under his influence, with regard to any vote or opinion they may give in a court-martial, as they were before this regulation was introduced.

As to the other mischief proposed to be prevented by this oath, which is that of the heart-burnings and animosities raised among officers, when their way of voting at courts-martial is known, the hon. gentleman mistook, or forgot to mention the worst consequence of these heart-burnings and animosities. It is not, Sir, the personal danger to which officers may be thereby exposed, but it is the prejudice it may be of to the service; for when there is not a cordial friendship among the officers employed in the same expedition, or upon the same command, it often occasions a miscarriage or defeat. But even that of the personal danger which officers are exposed to, deserves our consideration, and ought to be prevented as far as possible. The case of officers giving their opinion in a court-martial, and that of a judge delivering his opinion from the bench, is widely different. The latter may never, probably, converse, or be in company with any man he has offended by that opinion: he seldom appears but in a court of justice, or amongst his intimate friends; and, consequently, cannot be much exposed to the resentment of the man he has offended; but an officer may happen the very next day to be in company, perhaps sent upon the same command, with the man against whom he voted at a court-martial; and though such man may not seem to shew any resentment against him on that account, he may pick a quarrel with him upon some other account, and may put an end to his life in a duel, without its being possible even for a court-martial to determine, that the duel proceeded from a secret resentment of what the deceased had done at a court-martial; from whence we see, that it is impossible to prevent the fatal consequences of such heart-burnings and animosities among officers, any other way than by preventing a discovery of the vote or opinion of any officer upon a court-martial; and for this purpose the oath now proposed, if it stands as it now does, will, I hope, be effectual.

But now, Sir, with regard to the amendment which the hon. gentleman has been pleased to propose, I must think it quite unnecessary, because, in my opinion, it is comprehended in the amendment made by the committee. Is not the High Court of Parliament a court of justice? Surely, it is the highest court in this kingdom; and, I hope, it will always be a court of justice. Suppose, then, that we should think it necessary to enquire into the conduct of a court-martial, and should be of opinion, that they had been guilty of some high misdemeanour, for which they ought to be punished: our method of proceeding must be by impeachment before the other House; and in that case, is not the other House to be deemed a court of justice? Can we then think, that any officer would be bound by this oath, as it now stands, not to discover the vote or opinion of any member of that court-martial? The case is to me so clear, that I wonder any one should doubt of it; and therefore I was surprised to hear such an amendment proposed by a gentleman, who was not only bred to the law, but has a very extensive knowledge of it.

As to that of a breach of privilege, Sir, I do not know how any court-martial can be guilty of it; for as they have nothing to do with property, as they take no cognizance of any thing but crimes, and of no crimes but such as are of a military nature, their jurisdiction can never, I think, interfere with any known privilege of parliament; for I do not know that we ever claimed any privilege with regard to crimes; and therefore any of our common law courts, nay, even a single justice of peace, may commit a member to prison, if he has committed a murder, or been guilty of a riot; and this he may do without the least danger of being deemed guilty of a breach of privilege. For the same reason, if a member of this House be an officer in the army, his general may put him under arrest, or may order him to be tried by a court-martial, without being guilty of any breach of privilege; for if it were otherwise, I am sure, it would not be proper that any officer in the army should ever be chosen a member of this House, or any member of this House preferred to be an officer in the army.

With regard to a breach of privilege

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therefore, Sir, I think it is hardly possible for one to suggest a case of that kind, where it might become necessary for us to enquire into the vote or opinion of any particular member of a court-martial; and if any such extraordinary case should ever occur, we should then be acting in our judicative capacity, as much as any court of justice is, when it enquires into and punishes a contempt of court; consequently, no officer would by this oath be bound up from disclosing to us the vote or opinion of every member of a court-martial, that had by their sentence committed a breach of the privileges of this House.

Mr. *Robert Nugent:*

Sir; as the hon. gentleman who spoke last endeavoured to shew the necessity, or at least the utility, of this modern oath of secrecy, and as I think it not only unnecessary and useless, but dangerous, I hope I shall be indulged a few words in justification of my opinion. As to the necessity of this oath, we have an experience of above 60 years for convincing us, that no such thing can be necessary for any good purpose. I hope I may say, without derogating from the character of any of our present generals, that king William and the duke of Marlborough knew as well as any of them, what was necessary for the good government of an army; yet neither of them ever thought of introducing such an oath, and both of them governed our armies as well, and triumphed, at least, as often over our enemies, as any general of this age ever did. From the example, therefore, of these two great generals, I think I have some reason to conclude, that no such oath ever was or ever can be necessary for the good government of the army.

But, Sir, I cannot but admire the ingenuity of the gentlemen who first introduced and now support this oath, under the specious pretence, that it will render our courts-martial more independent, and, consequently, more impartial. If there were any truth in this pretence, it would be a sort of impeachment of the wisdom or uprightness of the two generals I have named; and for this reason, if there were none other, I should be apt to doubt the truth of it; but for many reasons I am convinced, that it will render our courts-martial more dependent and more partial than they ever were heretofore. I shall readily grant, that the officers of our army have always hitherto had a very great regard for their character both as to honour and courage, and while they continue to have this regard, they will be independent and impartial in all their proceedings upon courts-martial, as long as those proceedings are open and publicly known; because a man must forfeit his character if he concurs in the condemnation of an innocent man, or the acquittal of a rogue, at the instigation of a commander in chief; but when such proceedings are carried on in secret, and no man dare tell whether he concurred or no in such an unjust sentence, as no one can preserve his character by opposing it, every one will endeavour to recommend himself to his general by joining in it, and to others every one will pretend, or at least insinuate, that he opposed the sentence.

I say, Sir, that when there is no character to be got by opposing, and the infamy is and must be shared by every member of the court, all of them, or at least the majority, will always be ready to concur in any unjust sentence their general may please to require; for there is nothing more vain than to imagine, that you can, by any oath, prevent the general from coming at the knowledge how every man voted in a court-martial, which usually consists of a large number of members, when he lays himself out for obtaining such a knowledge. He will always, in such a number, find an informer, and the more readily, because it will be impossible to discover who was his informor; therefore, it is a mistake to say, that no man can give such information, without incurring the character of an informer, as well as a perjured wretch. For this reason, Sir, I must say, that the first projector of this oath had, in my opinion, a fixed design to give to every commander in chief a commanding influence over every court-martial that might be held in the army under his command; and this can never be necessary for serving any good purpose, but may be necessary for serving a bad one.

Now, Sir, as to to those dangerous animosities and heart-burnings, which are said to be raised among officers, by its being known how they voted at courts-martial, it is strange that no such animosities or heart-burnings were ever heard of in our army, till within these three or four years. I have conversed with many old officers in our army, and they have informed me, that when gentlemen upon a court-martial, behave not only with justice,

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but with good-nature and candour, they never incur the ill-will, even of those who suffer by the sentence they concurred in; and that a fellow would be hooted out of the army, should he ever testify any resentment against such an officer. I am therefore apt to suspect, that some of our courts-martial have not of late behaved as they ought to do; for when a man behaves with insolence in power or office, and adds injustice to his insolence, I do not wonder at his meeting with resentment, or suffering by that resentment; but this is so far from being an argument with me for having his behaviour concealed, that I should be for having it printed and published, on purpose, that if he did not meet with a just reward from his superiors in command, which he ought to do, he might meet with it from those who had suffered by his injustice, or been provoked by his insolence. Any scheme, therefore, for concealing any part of the behaviour of such men, I must look on as a scheme for protecting and propagating insolence and injustice in our army; and as this would drive every man of honour and spirit out of it, I shall always to the utmost of my power, oppose every such scheme.

The present, I admit, Sir, reaches no farther than that of voting in a court-martial; but one bad precedent generally makes way for another: it will be easy to slip from voting to proceeding; and though there is at present a very great difference between the methods of proceeding in courts-martial and courts at common law, if secrecy be once introduced into every part of the former, it will be found so suitable to arbitrary power, that no stone will be left unturned for introducing it into the latter, and our army, in mere revenge, will contribute all in their power towards that fatal change in our constitution. Therefore, even those gentlemen who are not of our army, nor ever design to engage in it, ought to be cautious of subjecting it to a court of inquisition, under the ensnaring pretence of rendering courts-martial more independent and impartial.

But I hope, Sir, I have already laid this snare so open, that no gentleman can be caught in it. I shall grant, that from the nature of military service, it is impossible to render the judges upon a court-martial quite independent of their general in chief; and therefore there are but two ways for preventing their being too much influenced by him in their judgments: one is, by their voting as well as proceeding in the most public manner; for then some of them at least, I hope most of them, will be ashamed to concur in any act of manifest injustice or oppression; and the general will be afraid of having it publicly known, that such an act was the effect of his influence. The other is, by rendering it impossible that a man's way of voting should be known to any one but himself; and as this is so often practised in this House, I cannot comprehend how the hon. gentleman came not to think of it. When I say this, every gentleman must suppose I mean, that all voting in courts-martial should be by balloting. This would effectually conceal a man's way of voting from the general as well as the public: but by the method proposed, you will conceal it from the public, to whom it ought to be known, and you will at the same time reveal it to the general, to whom it ought never to be known.

These, I say, Sir, are the only two possible methods for preventing the too great influence of a general upon the judgment of a court-martial. Which of these two is the best, I confess I am at a loss to determine; for with Pliny I may ask, 'Quotecuique eadem honestatis cura secreto, quæ palam?' And I am pretty apt to join in opinion with him, that 'Multi famam, conscientiam pauci verentur.' By the method we have chosen, we divest men of all concern for their reputation, and we put it in the power of a tyrannical general, or minister, to divest them of conscience. What in this case can be expected from any court-martial, but such a sentence as they may privately be directed to give by their commanding officer? And what is still worse, we are going to put it out of our power, when a sentence flagrantly unjust and oppressive is passed, to discriminate the innocent from the guilty; for though the parliament may, and, I hope, always will act justly, yet in the common way of speaking, neither House is ever called a Court of Justice.

But suppose, Sir, that in a law sense the words Court of Justice comprehended both Houses of Parliament, if the hon. gentleman who spoke last, intends that they should be so understood, why does he oppose adding the words proposed? Does abundance of the law break the law? Is it not necessary to add those words, in order to prevent a doubt which might arise in the mind of an officer, who is

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brought to be examined before us? I shall not talk of an officer's tenderness of conscience; but, I hope, I may talk of his tenderness of honour; and a man who is tender of his honour, will put his own sense on the words of every oath he takes, and will die rather than do or say any thing he in his own mind thinks contrary to that sense. Suppose then, that an officer should tell us, that as he never supposed this House to be a court of justice, he thought himself bound by his oath not to disclose to us how any man voted at a court-martial of which he was a member. Could we with any justice punish such an officer for contumacy? And if all the officers of that court-martial were of the same opinion, which they would probably be, could we proceed in any such enquiry? At least we could not distinguish who had voted for or against that unjust sentence; and an inflamed House of Commons might thus, very probably, be provoked to pass a Bill of pains and penalties against every officer who had the misfortune of being a member of that court-martial. Therefore, to prevent any future enquiries being interrupted by such a scruple, or to prevent our being provoked, and, I may say, compelled to punish the innocent equally with the guilty, it is absolutely necessary to add the words now moved for.

For our own sakes, Sir, and for the preservation of our privileges, we ought to add these words. I was, indeed, surprised to find the imagination of the hon. gentleman who spoke last so unfruitful, that he could not suggest to himself any one case, wherein a court-martial might be guilty of a breach of the privileges of this House. I have known his imagination much more fruitful upon other occasions. Do not we all remember, that a famous court-martial, but a few years ago, put a very high indignity upon one of the courts in Westminster-hall, for which they were glad to make a most humble submission? And may not an ignorant and wrong-headed court-martial put such another indignity upon this House, or, perhaps, on you, Sir, who so worthily and so honourably fill the chair? I wish gentlemen would be a little more cautious, when they talk of the power of judges, justices of the peace, or commanding officers, over the members of this House, in the case of crimes. The king himself, when he orders any of our members to be taken into custody for the highest of all crimes, treason, always takes the first opportunity to acquaint us with it, and to desire our leave to detain him in custody. This, it is true, is never refused, when there is no suspicion of a sinister design; but if we had any such suspicion, we have a power to send our serjeant for our member, to examine into the cause of his commitment, and to declare it a breach of privilege, if no sufficient cause should be made appear; and I would advise the highest general that ever can be in our army, or any court-martial we can ever have, to be cautious of confining an officer who is a member of this House, unless there be some very just and very urgent cause; for without such a cause we should deem it a breach of privilege, and would punish it accordingly.

But, Sir, suppose a court-martial, without any just cause, should order one of our members to be confined in the dungeon of the Savoy, merely, perhaps, for the sake of keeping him out of the House, when their general was in danger of having a vote passed against him; and suppose the question for this purpose should be carried in the court-martial by a majority but of one, how could we punish the guilty, how could the innocent clear themselves? We may talk of our being a court of justice in matters of privilege and election: I doubt if the world thinks so: I am sure, we do not act as such, because we never pretend to administer an oath to any witness examined upon such occasions; and this alone is sufficient for raising a scruple in an officer's breast, whether he be at liberty to disclose to us, how any man voted in a court-martial, which had committed such a heinous breach of privilege.

I shall therefore conclude, Sir, with observing, that those who are of opinion, that the two Houses of Parliament are not comprehended under the words Court of Justice, must find themselves under a necessity of agreeing to the Amendment proposed; and those who think that they are, can have no reason for opposing it; for which reason, I hope, it will be unanimously agreed to.

Lord *Barrington*:

Sir; as the question now before us is not, whether we shall agree to this oath of secrecy or no, but whether or no we shall agree to the Amendment proposed, I shall not presume to take up your time with repeating the arguments in its favour, or answering the objections made against it. All I shall say on this head is, that as I think the influence of superior officers upon

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their inferiors, who happen to be members of a court-martial, ought to be prevented, I shall be for this oath of secrecy until I hear another method for the same purpose proposed, which I think equally practicable and more effectual.

Now, Sir, as to the Amendment, I am so fully convinced, that under the term Court of Justice both Houses of Parliament are comprehended, that I cannot think any man will ever doubt of it; and if any man should put his own sense upon the words of an oath, and contumaciously insist upon that being the sense, contrary to the general opinion of mankind, I must think he would deserve to be punished for his obstinacy. Nay, farther, I should look upon him as one of those who voted in favour of the unjust sentence enquired into, and his making use of that pretence for not answering, I should consider as a confession of his guilt. Therefore, I must think the Amendment proposed quite unnecessary; and I am against agreeing to it, because, I think it would introduce a very invidious distinction between a court of justice and a House of Parliament, as if neither House were ever to be called a court of justice; when it is so evident, that each has in some respects a jurisdictive as well as a legislative capacity; and we join both together when we pass an act of attainder, or an act for inflicting pains and penalties upon any criminal.

For this reason, Sir, I must be of opinion, that the oath, as it stands now, can be no bar to any future parliamentary enquiry, nor to our punishing any court-martial, that shall dare to be guilty of a breach of the privileges of this House. But at the same time I must observe, that however jealous we may be of our privileges, we ought not to shew such a jealousy of them, as may encourage any of our members, who happen to be in our army or navy, to be guilty of any military crime; for a gentleman's having the honour to be chosen a member of this House, no way frees him from the jurisdiction of a court-martial, or from that duty and subordination he is bound to as an officer in our army or navy, so far as it is consistent with the duty of his service in this House.

Upon this subject, Sir, I lately happened to peruse a case which I think very apposite to the present purpose. It was the case of the earl of Torrington, who was taken into custody by a warrant of the privy-council, and sent to the Tower, in order to be tried by a court-martial, for his behaviour in the sea-fight with the French off Beachy-Head, soon after the beginning of the reign of king William and queen Mary. As he was a member of the other House, as soon as the parliament met, he complained to that House of his commitment, and claimed his privilege as a peer of the realm. Their lordships censured the order of council for his commitment, as not having been legally issued; but after calling for and perusing his commission, they declared, that by his accepting and acting under that commission, he gave up his privilege of being tried as a peer, for any offences committed against the act of the 13th of Charles 2, for regulating the navy, and was, according to the directions of the said act, to be tried by a court-martial. Accordingly, he was soon after tried by a court-martial; and though the members of that court were generally none of his friends, and the court-interest was strong against him, yet, to the honour of that court, as well as his own, he was unanimously acquitted of every article laid to his charge.

This, I say, Sir, was the behaviour of the other House upon this occasion; and I do not question but that this House would behave in the same manner, if any one of our members, who is an officer in our army or navy, should complain of his being confined or tried by a court-martial for a real breach or neglect of his military duty. We might, perhaps, enquire so far as to be convinced of his having been guilty; and as there is nothing in this oath that could obstruct that enquiry, or any enquiry we may hereafter think proper to make, it does, in my opinion, not stand in need of any amendment.

General *Oglethorpe*:

Sir; I am surprised to see such an opposition made to the amendment proposed, since every gentleman who has spoke against it insists, that the words, as they now stand, will include both Houses of Parliament. I cannot, Sir, suspect such hon. gentlemen of insincerity; but if they are really sincere in the opinion they profess, complaisance alone to a brother member should induce them to agree to what he has proposed, Nay, I will go farther; I will say, that, to avoid the imputation of being actuated by a spirit of persecution, they should agree to this amendment; for if an officer, upon being called before you to be examined, should answer, that he could not with a safe conscience, or con-

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sistently with his own honour, call it which you will, declare how he or any other member of a court martial had voted, because of the oath he had taken, it would be downright persecution to presume such a man guilty, because of such refusal, and to punish him as one who had concurred in an oppressive, perhaps a treasonable sentence. I say treasonable, Sir; for according to the law of parliament, there may be treason against the constitution as well as against the crown; and if an officer should, by the sentence of a court martial, be condemned to be shot for refusing to obey orders not only unlawful, but such as evidently and directly tended to the overthrow of our constitution, I should, as a member of this House, make no scruple to vote every officer, who had concurred in that sentence, guilty of high treason; and as the existence of such a case is far from being impossible, I shall never give my consent to a law that would render it impossible for this House to discover who had, or had not, concurred in such a sentence, which, I think, would be the consequence of this oath without the amendment proposed.

I shall be cautious, Sir, of saying any thing that may give rise to a contest between the two Houses of Parliament: every gentleman ought, I think, to be extremely cautious in this respect; but then we ought to be equally cautious of saying any thing inconsistent with the dignity of this House, or that may be interpreted as a surrender of the privileges of the Commons of Great Britain. Did we ever yet acknowledge the other House as a court of justice? The High Court of Parliament is a court of justice, and the highest court of justice in the kingdom; but the parliament consists of two Houses, and neither House has hitherto acknowledged the other as a court of justice. Therefore, to prevent a future contest between the two Houses of Parliament, we should agree to the amendment proposed; for without this amendment, such a contest may very probably be the consequence of the oath now under consideration. Suppose the other House should think fit to enquire into the proceedings of some future court-martial, and should commit a member of that court-martial for not declaring before them, as a court of justice, how he and the rest voted in that court-martial, I believe, this House would take notice of such a commitment, and would determine it to be an encroachment upon the privileges of the Commons. And, on the other hand, if we should commit a member of a court-martial for not declaring to this House, as a court of justice, how he and the other members voted in that court-martial, the other House would probably take notice of it, and might find a method for bringing the case before them, which would certainly occasion not only a contest, but a breach between the two Houses.

Thus, Sir, any gentleman, without being a conjuror, may foresee, that the oath, as it now stands, may probably be attended with most fatal consequences; therefore, if this oath of secrecy be to stand part of this Bill, I hope, the amendment proposed will be agreed to. But I confess, I am against the oath itself; for I think the proceedings of all courts of justice ought to be in the most open and public manner, that the impartial world may have an opportunity to judge of them, and that the judges may meet with that general applause or censure they may deserve, which the public, when fully informed, will always justly bestow. A good and an upright judge will never desire to make a secret of any part of his proceedings; but a wicked one certainly will; for from the highest authority we know, who they are that love darkness rather than light: and no man, I think, that has a due regard for that authority, can ever be for indulging them in their choice.

For this reason, Sir, I am against the oath of secrecy in general; but if it passes without the amendment, we shall, in my opinion, shut the doors of this House against that information which we ought carefully to seek after, and closely attend to: I mean the behaviour and proceedings of courts-martial; for not only the public service, but the constitution and liberties of this country, may be deeply affected by the behaviour and proceedings of such courts, either by sea or land. If the members of those courts should once come to be more afraid of the resentment of their general or admiral, than of the resentment of this House, they may manage it so, as in a few years to set that general or that admiral, above the resentment of either or both Houses of Parliament. But how shall we make our resentment terrible, if we part with that power which alone makes it terrible? What is it that makes the resentment of this House terrible to evil doers? It is our being the grand inquest of the nation. Can we perform that func-

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tion, if men are tied up by oath from making any discovery?

I shall grant, Sir, that notwithstanding this oath, we may have a proof of the sentence, and of some part of the proceedings, because we may order them to be laid before us; and from these we may be convinced, that every interlocutory resolution, as well as the final sentence, were most unjust and oppressive, or of the most dangerous consequence to our liberties: we may even vote them so, with a *nemine contradicente* prefixed to our Resolution; but this would serve only to bring us into contempt with the people, as well as the army; for we could proceed no further: we could neither impeach, nor order in a Bill of pains and penalties, without some proof, as to the particular men who concurred in that sentence, or in those resolutions, and this we shall effectually debar ourselves of, if we reject the amendment proposed; for by the sentence and resolutions all would appear to have concurred, and consequently to be equally guilty; and such a court-martial would certainly take care, that, when they came to vote, there should be no by-standers nor listeners.

The proposed Amendment being dropped, there was no division.

*Debate in the Commons on a Clause in the Mutiny Bill, relating to the manner of punishing Non-Commission Officers.**] February 7, the Bill was read a third time, and after several amendments were made to the Bill, colonel George Townshend moved to add a clause by way of rider, for preventing any non-commission officer being broke, or reduced into the ranks, or any officer or soldier being punished, but by the sentence of a court-martial. Upon this the following debate took place:†

Colonel *George Townshend:*

Sir; I believe, every gentleman will admit, that one of the great ends of our sitting here is, to take care not only of the liberties and properties of the people in general, but of every man, and every set of men in particular; and there is no set of men in the kingdom whose liberties and properties we ought to be more careful of, than those of our soldiers and sailors, both on account of their distinguished merit, and on account of the danger accruing from their being once brought into a state of slavery; for if this should ever happen, they will probably, and may easily enable some future ambitious prince or prime minister to bring the rest of their countrymen into the same condition with themselves. When I talk of the liberty and property of soldiers and sailors, I do not mean, that they should be exempted from military law, or a military jurisdiction; for that, I know, is inconsistent with the service; and I likewise know, that whilst courts-martial preserve their integrity, a man's liberty and property is as safe under their jurisdiction, as under the jurisdiction of common law. He knows the laws, he knows the methods by which he is to be tried; and by a careful observance of his duty, he may prevent his being ever in danger of suffering by their sentence. What I mean, Sir, is a man's being subjected to the arbitrary will and pleasure of his commanding officer, and unavoidably exposed to the danger of suffering in his person or property, by the whimsical and unmerited resentment of such officer; for a man in these circumstances may truly be said to be a slave, and very often suffers for what he ought to be rewarded.

* From the London Magazine.

† "The Mutiny Bill for the ensuing year was mitigated with an essential alteration, relating to the oath of secrecy imposed upon the members of every court-martial, who were now released from this reserve, if required to give evidence, by due course of law, in any court of judicature; and whereas, by the former Mutiny Bill, a general was empowered to order the revisal of any sentence by a court-martial as often as he pleased, and, on that pretence, to keep in confinement a man who had been acquitted upon a fair trial, it was now enacted, That no sentence pronounced by any court-martial, and signed by the president, should be more than once liable to revisal. Colonel George Townshend, son of lord vise. Townshend, who had equally distinguished himself by his civil and military accomplishments, proposed another clause, for preventing any non-commissioned officer's being broke, or reduced into the ranks; or any soldier's being punished, but by the sentence of a court-martial. He gave the House to understand, that certain persons attended at the door, who from the station of non-commissioned officers had been broke, and reduced into the ranks, without trial, or any cause assigned; and he expatiated not only upon the iniquity of such proceedings, but also upon the danger of leaving such arbitrary power in the hands of any individual officer. A warm debate was the consequence of this motion, which, however, was over-ruled by the majority." Smollett.



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When I talk of the properties of soldiers, gentlemen may perhaps, Sir, make themselves merry with what I say; for I shall allow, that very few of them can ever arrive at any property; but I hope it will be granted, that every officer, commissioned or non-commissioned, has some property. His office or rank is his property, as well as the pay which belongs to it: and it is a property, which we are to suppose he has purchased by his service. I shall admit that this is not always the purchase; for in the army, as well as in other departments, men are sometimes preferred for what they ought to be cashiered; and some, I believe, especially of the non-commissioned officers, are raised (as one officer wittily said to another, who had a handsome wife) not by the sword but the scabbard. But in general, I hope, we may suppose, that no officer, not even a corporal, obtains his preferment but by the merit of his service, and that I must reckon a much more valuable consideration, at least with regard to the public, than if he had bought it at the highest price with his money. An officer's rank in the army, let it be what it will, I must therefore look on as his property; and this House ought to take care, that no man should be stript of his property, unless he has been guilty of some very great crime, or some heinous neglect of duty.

But, Sir, with regard to the staff-officers, I do not know how a custom has prevailed in the army, that they are at the absolute disposal of the colonel of the regiment, and that he may whenever he pleases, degrade them of the preferment they have thus purchased, and reduce them into the ranks, that is, reduce them again to the state and condition of a common soldier. When this custom was first introduced, I cannot determine; but I think it was never established by any article of war, before 1747, when our usual articles of war underwent many and great alterations, most of which were unnecessary even for the strictest discipline, and could serve no purpose but that of vesting an absolute and despotic power in the chief commander of our army. In that remarkable year, indeed, this power of a colonel's reducing a non-commissioned officer to a private centinel, by his sole and absolute authority, was slipt into our articles of war, and now stands, I think, in the 16th article of the 15th section, relating to the Administration of Justice; which provides, that no commissioned officer shall be cashiered, or dismissed the service, except by his majesty's order, or by the sentence of a general court-martial, approved by him, or the commander in chief appointed by him; but that non-commissioned officers may be discharged as private soldiers, and may, 'by the order of the colonel of the regiment,' or by the sentence of a regimental court-martial, be reduced to private centinels.

Now, Sir, this is really granting to the colonel a more arbitrary and greater power over the staff-officers in his regiment, than his majesty has over the commissioned officers in his army; for though his majesty may cashier such an officer by his sole authority, he cannot reduce him to a private centinel. If any such officer be cashiered, he is absolutely dismissed the service, and may betake himself to some other employment, or go into foreign service; but if a colonel takes a dislike, however whimsical, however unjust, to any staff-officer in his regiment, he may reduce him to a private centinel, and oblige him to serve, perhaps during the rest of his days, as a common soldier, in that very regiment where he once had a command; which is certainly a more severe punishment than that of discharging him from the service. And though a serjeant or corporal of foot be commonly reckoned but a mean employment, I must observe, that a quartermaster of dragoons is but a staff-officer, and yet it is a post that I have known sold for 400 guineas, and a post that no gentleman, not otherwise provided for, would disdain to accept of.

From hence we may see, Sir, what a dependant slavish state all the non-commissioned officers of our army are in: is it proper that any British subject, especially those of our army, should be continued in such a slavish state? Is it necessary for the service? If any non-commissioned officer should really be guilty of any crime, any neglect of duty, or any disrespect towards his colonel, can we suppose, that a regimental court-martial would not punish him as severely as he deserved? Why then leave, in the colonel of a regiment, such an absolute and arbitrary power over that property, which men have purchased by their merit in the service of their country? But, Sir, it is not only the property of such officers, but their persons, and the person of every soldier in the army, that by custom are in some measure under the arbitrary power of the commanding officer, or at least of

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the commander in chief of an army. I do not say, that the commander in chief can by custom order a staff-officer or soldier to be put to death, or dismembered, without the sentence of a court-martial; but without any such sentence they have sometimes been very severely punished; and this is a power which ought not to be trusted, I think, with any man whatsoever, especially as the offender may be immediately confined, and very quickly brought before a court-martial.

What is the end of punishment, Sir? Not merely resentment or revenge, I hope: is it not, ought it not always to be inflicted as an example and a terror, for preventing others from being guilty of the like offence? How can it answer this end, when the offence is not publicly and certainly known? Is not this always the case, when it is inflicted by the sole arbitrary authority of the colonel, or commander in chief? He may publish his reason for punishing, and he may assign a justifiable reason; but mankind generally and rightly embrace the maxim, that every man ought to be presumed innocent till he is proved guilty. The army will therefore reason thus with themselves: if this was the true reason, why was not the man tried by a court-martial? Why was not the fact there proved against him? They will therefore conclude, that the reason assigned was not the true reason; and they will probably suppose a reason not much to the honour of him who ordered the punishment to be inflicted. Thus, Sir, a colonel or a commanding officer should, for the sake of his own character, as well as for the sake of example, never order any punishment to be inflicted, especially that of reducing a staff-officer to a centinel, but by the sentence of a court-martial.

Let us consider, Sir, that the success of our armies in time of war, depends as much upon the bravery of our common soldiers, as upon the bravery and conduct of our officers; and that it is this alone which makes our troops superior to any equal number of those of France; for without being accused of disrespect, I believe, I may say, that the French officers are equal to our own both in conduct and courage. For this reason we should take care not to depreciate that which is the chief incitement to bravery in our common men. What is this incitement? An halbert, Sir, is almost the only reward, the highest preferment, that a common soldier can expect. While this continues dependent upon the mere whim of a colonel, can it be such an incitement as it would be, were a man insured of holding it during life, unless justly deprived of it by a fair trial before a court-martial, for some heinous crime or neglect of duty?

Besides, Sir, I think, that for the safety of the commissioned officers in our army, this power which the colonel has over the staff-officers of his regiment ought to be abridged. Suppose a colonel should conceive a pique against some captain in his regiment, and should bring him to be tried by a court-martial for some pretended military crime, which might affect his honour if not his life: the witnesses against him would probably be two or three serjeants or corporals of the same regiment; and when they know that they must either swear against the captain accused, or be reduced to private centinels, and obliged to serve for ever after as common soldiers in the regiment, could such a captain depend upon his innocence? Could he expect that the crime would not be fully proved against him?

This is therefore, Sir, a power, which may be of the most dangerous consequence to every officer in our army, below the rank of a colonel; and if we add to this the power assumed by the commander in chief, to inflict severe punishments by his sole authority, we must admit, that all the staff-officers and soldiers of our army are in a more slavish subjection than this House ought to endure any innocent British subject to be in. For this reason, Sir, I have prepared a clause to be added by way of rider to the Bill now before you, for providing, that no non-commission officer shall be cashiered or reduced to a private centinel: and that no officer or soldier shall be punished, but by the sentence of a court-martial; therefore I shall conclude with moving for leave to bring it up.

The motion being seconded, and the Clause brought up and read,

Colonel *Henry Conway* rose and said:

Sir; I hope, I have as great a regard for the liberties and properties of the subject as any gentleman in this House; but I think, that the liberties and properties and even the religion of the people of this kingdom, depend upon our preserving a strict discipline in our army; and therefore I shall always be extremely cautious of introducing any new regulation, or abolishing any old custom relating to our army. The power which the colonel has

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over the serjeants and corporals of his regiment, I mean the power of creating and reducing them whenever he pleases, is a power coeval with our army: and while we have an army, I think, it is necessary that it should subsist. In advancing a common soldier to be a corporal, or a corporal to be a serjeant, the colonel generally takes the advice of the captain, in whose company such serjeant or corporal is wanted; and a man's knowledge of the exercise, his diligence in performing his duty, and his bravery, are the qualifications that usually recommend a common soldier to be a corporal, or a corporal a serjeant. But there are likewise other qualifications necessary, and qualifications that cannot be known till a man comes to be tried; therefore both the colonel and captain are often mistaken in their man: and when they find themselves so mistaken it is absolutely necessary for the good of the service, that the colonel should have an unlimited power to reduce him again to a private centinel. Nay, a captain may find that he has got a very incapable or troublesome serjeant or corporal into his company, and yet it may be impossible for him to make his incapacity or troublesomeness appear by proper proofs, to the satisfaction of a court-martial.

I must likewise observe, Sir, that as bravery, activity and diligence are necessary for recommending a soldier to the rank of a corporal or serjeant, so it is necessary, that after he is advanced to that rank, he should continue to be as brave, active, and diligent as ever he was before: and yet, when he is advanced to the rank of a serjeant, which is, perhaps, the summit of his desires, or at least of his hopes, he may very naturally grow lazy and indolent, or perhaps in a day of battle take more care of his life than is consistent with his duty. For which reason I think it is necessary for the service, that such officers should always remain under the apprehension of being reduced by their colonel, if they are guilty of the least cowardice, negligence, or misbehaviour.

Whatever notions some gentlemen may have of absolute power, Sir, it has been thought necessary in all countries for preserving subordination and discipline in an army. In the Roman commonwealth, from its very first original, the generals of their armies had a most absolute and unlimited power over every officer and soldier in the army. They could not only prefer and reduce, but punish even with death itself, by their sole authority, and without the sentence of any court-martial. The story of Manlius, who put his own son to death for fighting the enemy against his orders, is so well known, that I need not put gentlemen in mind of it. Not only particular men, but whole armies, were among the Romans subject to be punished by the sole and absolute power of their general: for we read that Appius, in the very infancy of that commonwealth, caused every tenth man in his army to be whipped, for flying from the enemy; besides punishing some of the officers with death. And, I believe, there is now no country in the world, where their armies enjoy so much freedom, or so much security against being oppressed by their commanders, as both the officers and soldiers of our British army enjoy.

But in this, Sir, as in most other things, there is an extreme, there is a *ne plus ultra*; for if you extend this freedom and security too far, you will destroy all discipline and subordination in your army; and I am afraid, that what is now proposed will be running into that extreme, without so much as a pretended necessity; for though this power of reducing staff-officers to private centinels has been enjoyed by every colonel in our army time out of mind, yet there has never been so much as one complaint of its having been made a bad use of, or applied to any wicked purpose: and indeed, if it is ever exercised, it is always at the desire of the captain of the company to which the serjeant or corporal belongs, and after an examination into the complaints against him; so that the colonel really acts as judge in the affair, and is as good and as impartial a judge as any regimental court-martial can be supposed to be.

As this has always been the practice in our army, Sir, I must presume, that the hopes of an halbert will be as great an incitement for common soldiers to behave well, as it could be, were the Clause now offered made part of this Bill; for when once they have got an halbert, they are now sure of keeping it as long as they perform their duty, and surely, no gentleman will desire that they should hold it any longer. But if this clause should be passed into a law, I am afraid it would have one of these two bad effects; the staff-officers would trust so much to this security, that they would behave negligently, and if courts-martial acted with rigour, more of them would be cashiered or reduced,

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than ever were so by our colonels: on the other hand, if courts-martial did not act with rigour, and never punished one, unless he was guilty of some heinous crime or egregious neglect, the posts of serjeant or corporal would become a sort of civil employment, and would, I fear, be too often sold to the highest bidder; which would in a short time render our army little better than a common militia.

As to the danger which officers under the rank of a colonel may be exposed to, by staff-officers bearing false witness against them, at the instigation of their colonel, it appears to me to be altogether imaginary; for the danger of suborning witnesses to give false evidence is so great, that no colonel, nor any one for him, would ever attempt it; and should he attempt it, and succeed so far as to find two or three men abandoned enough to undertake it, by being examined apart, and artfully cross-questioned, the falshood of their evidence would probably be detected, and they punished for their perjury, which could hardly fail of bringing on a discovery, or at least a strong suspicion of the subornation; and no colonel under such a suspicion could expect to hold a commission in the army, as it is, and I hope, will always be in the king's power to dismiss such a colonel from the service; for the officers of the army, as Cæsar said of his wife, should be not only innocent, but free from suspicion.—Then, as to what the hon. gentleman observed about the end of punishment, he should consider, that reducing a serjeant or corporal to a private centinel is not properly a punishment, but the removing a man from a post which experience has shewn him not to be fit for; and that experience must be known to the whole regiment, as well as to the colonel of the regiment, or the captain of the company he belongs to. Should a serjeant or corporal be guilty of any crime, or of any criminal neglect of duty, the colonel would not certainly content himself with removing him, but would order him to be tried by a regimental court-martial, in which case the offence would be proved, and the punishment would be an example: but when no such criminal matter is alleged against him, when nothing is alleged but only a natural stupidity, or a natural want of understanding, which renders him unfit for any thing in the army above that of a common soldier, there is no occasion for any proof, or for any punishment by way of example.

To conclude, Sir, the power which the colonel has over the staff-officers, has subsisted for above sixty years, without any complaint of abuse; and as no one can know what may be the effect of abolishing it, I hope the hon. gentleman will excuse me, for denying my approbation of the Clause he has been pleased to offer.

Lord *Egmont:*

Sir; how long the custom has continued of vesting such an arbitrary power in the colonel over the staff-officers of his regiment, or when it was introduced, I shall not be at the pains to enquire; but if I have been rightly informed, it is a power that has been very little exercised, and when all the military laws of Europe have been ransacked for severities against soldiers, and for extending the power of their commanders, it is high time for this House to enquire into every power, which ancient custom or modern regulations have introduced into our army, in order to limit the power of the commanders, and secure the lives and liberties of the commanded, as far as is consistent with that due obedience and subordination, which it is necessary to preserve among soldiers of all ranks and degrees.

This power, Sir, might in former times have passed without notice, and may still, for what I know, be necessary in time of war; but we ought to distinguish between a time of war, and a time of peace, which is a distinction I find some gentlemen very unwilling to make. We ought to consider, Sir, that the laws made by us relating to our armies, either by sea or land, are meant only for their good government in time of peace; for in time of war, either abroad or at home, his majesty has in a great measure by his prerogative an absolute power; and those to whom the exercise of that prerogative is committed, have nothing to consider but the good of the service; for whatever might appear to be necessary for that purpose, would be excused, even though contrary to law: and an act of indemnity for all such exertions of power has always been passed in parliament, as often as it has been thought necessary.

In passing this Bill therefore, Sir, or any Bill of a like nature, we are not to consider what powers may be necessary for the service in time of war, but what may be necessary in time of peace; and as every power is liable to abuse, we ought, in framing our military as well as

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our civil laws, to be extremely careful not to grant any power but what is absolutely necessary, nor to extend any power beyond what is absolutely necessary for the due exercise of government in time of peace and tranquillity. If gentlemen would attend to this distinction, surely they would not talk of any custom among the Romans, whilst the liberties of that glorious commonwealth remained entire and free from danger. In time of war, it is true, the generals of their armies had a most unlimited power over the armies they led to the field; but for a long time those armies returned always with their general to attend him in triumph, and as soon as they arrived within the settled boundaries of the commonwealth, his power ceased, and all the soldiers of his army being thereby absolved from their military oath, became again free citizens of Rome.

This, I say, Sir, was the custom among the Romans, whilst their liberties remained entire and free from danger; but when they carried their arms into Africa and Spain, they began to continue their armies, and the soldiers of those armies, under their military oath, for a number of years; and what was the consequence? the soldiers, by being so long kept under absolute power, began soon to lose their taste for liberty, and in little more than a century were made the instruments for oppressing the liberties of their country; which would probably have happened much sooner, if the misfortunes of the second Punic war had not given a check to the luxury and a fillip to the virtue of the Roman people. No custom of the Romans can therefore be pleaded for any sort of military law in time of peace; but the misfortune of that people, the overthrow of that glorious commonwealth, ought to be a warning to us, to let our soldiers have as often, and as much as possible, a taste of living under the limited power of a free government, and of the difference between that and living under the absolute power of a military commander; and for this reason, as the military laws we make, can relate to nothing but the government of our army in time of peace, we should be as sparing as possible with respect to every thing, that may look like vesting an absolute power in the commander over all, or any of those under his command.

I cannot pretend, Sir, that I perfectly understand the duties of a serjeant or corporal, but I cannot think there is any mystery in the affair, nor can I comprehend how a serjeant or corporal can be guilty of any failure of duty, which cannot be explained or proved before a court-martial. As it does not require any very great brightness of parts, or any extraordinary qualifications, to be a corporal, surely, if a soldier were by nature so remarkably stupid, as not to be fit to be a corporal, it could not fail of being known to the officers of the company in which he served; and without a recommendation from some of them at least, no soldier is, I am sure, no soldier ought to be advanced to be a corporal or serjeant; for if without such a recommendation any soldier should be advanced by the colonel to be a corporal or serjeant in the regiment, I should much suspect, that it proceeded from what the hon. gentleman seems to be afraid of; and that the soldier had by some means or other procured a purse of gold to be given to his colonel for his advancement; but this could so seldom happen, and it would be so very difficult to keep such a traffic concealed, that I do not think there would be the least ground for apprehending such a consequence, should this Clause be agreed to, and all our staff-officers thereby secured in the enjoyment of their posts *quamdiu se bene gesserint;* which is a security every officer in the army ought to have, so far as it is consistent with the nature of military service; therefore, I think, the power of arbitrarily taking from a man that commission or rank in the army, which he has purchased by his service, is a power that ought to be lodged no where but in the crown alone; and though the power of thus suspending, till the pleasure of the crown can be known, may be delegated to a commander in chief, the power of arbitrarily cashiering neither ought, nor can be delegated to any subject whatsoever.

In time of peace therefore, Sir, there can be no danger in preventing a staff-officer or soldier's being punished, unless by the sentence of a court-martial; but this arbitrary power of punishing soldiers, or reducing staff-officers, if continued in time of peace, may be of the most dangerous consequence to our liberties both in a military and civil respect. In a military, because men subject to such an arbitrary power must be considered, they must consider themselves, as in a state of slavery: they are really in the same condition with the negroes in the West Indies; for though

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by the laws in that part of the world a master be allowed, by his own authority, to punish his negro slave as often, or with as much severity as he pleases, he is not allowed to extend that punishment to life or limb; and if our soldiers be for a long time continued in this state of slavery, like the Roman soldiers of old, they will lose all taste for liberty, and may then be induced to assist their commander in destroying the liberties of their country. But this, Sir, is not the only danger; for even in a civil respect this power of reducing staff-officers may be of dangerous consequence to our liberties; because many of them are house-keepers, and as such have a right to vote for members of parliament in some of our cities or boroughs. Can such men vote with freedom at an election? Can they refuse to vote for any candidate that comes recommended to them by their colonel? And as to every such recommendation, it may be supposed, that the colonel will follow the directions he receives from the chief general of our army.

Thus, Sir, the commander in chief of our army may make himself master of many of our elections; and where he cannot by such means make himself master, he may do as Caius Marius did at Rome, he may give private orders to his soldiers to murder any one that shall dare to set himself up as a candidate against the man he has recommended; for the first attempt that great and wicked Roman made against the liberties of his country, was to get his soldiers to murder the man who stood candidate for the tribuneship in opposition to the person he patronised; and the Roman soldiers were even by that time become so abandoned, so lost to all sense of law or liberty, that they readily obeyed their general's orders, though he was then out of command, and though it was but 100 years after the end of the second Punic war, and not above 150 years after the Romans first began to keep the same army under military law for a number of years together; for though the Romans, from the very first origin of their city, were almost continually engaged in wars, yet those wars were always, for the first 500 years, carried on by fresh armies, so that it seldom happened that any number of their troops were above a year without returning to enjoy the happiness of freedom and liberty. By this custom their citizens continued all to be soldiers, and their soldiers to be citizens; but soon after they began to keep up, and to carry on their wars by standing armies, their citizens lost that warlike spirit, and their soldiers that love of liberty, by which alone the freedom of government can be preserved.

For this reason, Sir, we ought to be careful not to give the meanest soldier of our army an occasion to think that he is in a state of slavery. On the contrary, we should, as far as is consistent with the nature of military service, furnish them with reasons for rejoicing in their being English soldiers, and consequently in a condition much superior to that of the slavish armies upon the continent; and as this of inflicting punishments, by the sole and arbitrary will of a commander, is a power that has been very seldom exercised in time of war, it cannot, I think, be necessary in time of peace; consequently I must, for the sake of my country, as well as for the sake of the staff-officers and soldiers of our army, agree to have this Clause made part of the Bill now under our consideration.

Mr. *Henry Fox:*

Sir; the spirit of reformation, with regard to our military laws, is of late grown so very warm, that I wish we may not, in the heat of our zeal, do as Jack did with his father's coat; I wish we may not tear the substance to pieces by too rashly tearing away the ornaments. For my own part, I shall never be for introducing a new law to prevent a grievance that was never felt, nor shall I be for abolishing an old custom from whence no inconvenience ever ensued, of which no bad use has ever been made. When I say this, no gentleman can expect, that I should be for adding this clause to the Bill now under our consideration, since it has not been so much as insinuated, that any wrong use has ever been made of the power which the colonel has to reduce a serjeant or corporal to a private centinel, when he finds it necessary for the service. Nay, I do not know how a wrong use can be made of it; for, to reduce a serjeant to a private centinel is so far from being a punishment, that it cannot properly be called degrading him; because, though he be called serjeant, and has a sort of command, he is still but a common soldier, as was some years since determined after a solemn argument at common law, on occasion of a serjeant's being arrested, and carried to prison to the Marshalsea for a debt under 10*l.* To this action, or at least in bar of the arrest, he pleaded that,

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clause in the Mutiny Act, which provides, that no soldier shall be taken out of his majesty's service by any process or execution for a debt under 10*l.* and upon this plea, after a solemn hearing, he was discharged; because it was truly said, that his colonel's putting a halbert into his hand instead of a musket, did not alter his condition, or give him any legal rank in the army above that of a common soldier; for that the colonel might next day take the halbert from him, and put the musket again into his hand.

This, Sir, was the manner in which that question was then determined; but if such a clause as this now proposed had then been in the Mutiny Act, perhaps the question might have been otherwise determined; and if the adding of this clause should hereafter produce an alteration in the opinion of our lawyers, I believe, there are many serjeants and corporals in the army, who would have very little reason to thank you for the favour you intended them by adding such a clause. In short, Sir, you may, I think, as properly take from a captain the power of removing a soldier from the front to the rear rank, or from the right to the left of his company, as to take from a colonel the power of removing a halbert from one man's hand to another's, as often as he finds it may be for the benefit of his regiment.

Then, Sir, as to the punishment of soldiers, I do not know that any thing properly called punishment was ever inflicted upon any of them, but in pursuance of the sentence of a court-martial; for if the major or adjutant of a regiment should give a soldier a tap with his cane, for not having clean linen, or for carrying his arms in a slovenly manner, I hope you would not call such a necessary correction a punishment; and yet if this clause should be passed into a law, I do not know but that our soldiers may take it into their heads, that this sort of correction has been declared illegal, and that the officer who makes use of any such is liable to an action of assault and battery. Nay, I do not know but that our judges might be of the same opinion; for though we may make laws, it is they that are to interpret them; and we cannot always foresee what sort of interpretation they will put upon the laws we make. This I am very sure of, that they have sometimes put an interpretation upon a law, that was never so much as dreamt of by any one concerned in making it.

For this reason, among many others, Sir, we ought to be cautious of adding any new and unprecedented clauses to the Bill now before us; and as to ransacking all the military laws of Europe for severities, I do not know what the noble lord means by it: I know of no severities that have been lately introduced into this Bill, nor has any alterations or amendments been made to the articles of war, but in order to give people a true notion of what is meant by discipline, or to describe clearly and fully the offence, the punishment, or the method of proceeding intended. And as to any new regulations, no one has been introduced but what was before established by custom in our army; upon the whole of which I will say, that no army in the world is better regulated, nor are the soldiers in any country less severely dealt with, or better secured against injustice or oppression. They are so far from being in a state of slavery, that they are, in my opinion, less liable to be rigorously dealt with when guilty, than those criminals are that are to be tried by common law; for courts-martial are always more inclined to lenity than severity, and are but too shy of declaring a man guilty, when there is not the strongest evidence against him.

We have not therefore, Sir, the least cause to apprehend, that our soldiers will ever look upon themselves as slaves, or that they will enable any commander to overturn that constitution, under which they enjoy so much security, and from which they reap so much benefit. With respect to our army, we have nothing to fear but a relaxation of discipline, which might render them unfit for defending us against our foreign enemies, and too apt to be troublesome not only in their quarters, but in every country they pass through; and as a relaxation of discipline might probably be the effect of the Clause now offered, I must be against making it a part of the Bill, especially as the hon. gentleman who offered it, did not attempt to shew, that in any one instance an unjust use had been made of the power, which the colonel has over the staff-officers in his regiment.

Colonel *George Townshend:*

Sir; I always thought, that a just apprehension of danger, or mischief was sufficient for inducing this House to agree to a new regulation, or to abolish an old and useless custom; but the hon. gentleman who spoke last, it seems, thinks,

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that we ought not to stop up the hole in a bridge till some person has fallen through and been drowned: we ought not to abolish that absolute power, which the colonel has assumed over the staff-officers of his regiment, till an instance be given of its having been egregiously abused. I confess, Sir, I always thought otherwise, and for this reason, when I opened this clause to you, I endeavoured only to shew, that this power was in itself dangerous and useless, that it might be very much abused, and that it never could be necessary for any good purpose; but now I am called upon, I think myself obliged to give an instance of its having been abused, which I do with reluctance, because I do not like to rake into the misconduct of officers, either of a high or low degree; and I must say, I am so far from being of opinion, that this power never was abused, that I believe, it would be found, upon enquiry, that hardly any use was ever made of it, but what was an abuse.

Now, Sir, as to the facts I am going to mention, I must premise, that I do not assert them from my own knowledge: I had them only by information; and therefore all I shall say is, that I shall faithfully relate them, and exactly as they have been told to me. During the heat of the Westminster election, a serjeant and corporal had the misfortune (I call it a misfortune, from what afterwards happened) to be marching along the streets with a party, going, I suppose, to the playhouse, or upon some other duty; and as they were upon their march, some of the soldiers behind them joined in the popular cry then reigning in the streets, and called out, "Vandeput for ever!" These uncourtly words, for though they were popular, they were certainly at that time uncourtly, neither the serjeant nor corporal took any notice of; but after their duty was over, returned to the parade, and dismissed their party, without making any report of this accident to the commanding officer. The accident was however taken notice of, and related by some busy tale-bearer: the serjeant and corporal were sent for and examined: they confessed they had heard some such words from some of the soldiers in their rear; and because they could not fix upon the man who had committed this heinous trespass, nor had made any report of it to the commanding officer upon guard, they and their whole party were sent prisoners to the Savoy, and both the serjeant and corporal were reduced into the ranks, where they have ever since served, and are like to serve for years to come, as common soldiers.

These, Sir, are the facts as they have been related to me; but that you may not entirely depend upon my relation, I must inform you, that the two men are now at your door, and ready to attest what I have told you, if you will please to call them in for that purpose. And now I must appeal to gentlemen, whether this was any military crime, or indeed, a crime of any kind, much less a crime which deserved such a severe punishment, as that of reducing a serjeant and corporal to private centinels: for notwithstanding what has been said as to its being no punishment, and notwithstanding the trial at law, which the hon. gentleman was pleased to give us an account of, I must still look upon it as a very severe punishment; and I shall continue in that opinion, unless the hon. gentleman could convince me, that there is no difference between 10*s.* 4*d.* per week, and 4*s.* 6*d.* per week, or between commanding and being commanded. This I believe he will never be able to convince me of; and while I continue in this opinion, I must think, that this was a very great abuse of the power which the colonels in our army have by custom assumed, of reducing staff-officers to the rank of private centinels, whenever they please.

The hon. gentleman, Sir, may talk of the happy condition of the soldiers of our army, and of its being preferable to that of the soldiers of any other army; but no man that reflects can think himself happy, whilst he is liable to be severely punished at the mere whim of any man whatsoever. And though I shall allow, that a little manual correction may now and then be necessary; yet, it is what a good officer will always be very sparing of, and will never make use of it, till he finds that no amendment can be expected without it. But this is not what is now complained of, or proposed to be remedied by the Clause I have offered to your consideration. It is to prevent any military commander's taking upon him to subject a soldier to such as have always been deemed military punishments, by his own sole authority; for that this is sometimes done, every gentleman knows, that knows any thing of our army; and that this should ever be permitted, I can never think necessary, considering how soon a court martial may be held, and the proper punishment inflicted by the authority of their sentence.



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As to courts-martial, Sir, I believe it may be true, that they have generally a bias to lenity, when uninfluenced by any particular resentment, and when they sit upon the trial of a brother officer; and I likewise believe, that they have a pretty strict regard to justice, when the complaint is by one officer against another; but I doubt if they have the same bias to lenity, when a poor fellow of a common soldier comes to be tried before them, or the same regard to justice, when the complaint is made by a private centinel against a commissioned officer, or by such an officer against a common soldier. And as to our soldiers being so well secured against injustice, I wonder to hear any gentleman talk of it, that has ever read the report of a committee of this House, made but a very few years ago, relating to our army; for the off-reckonings of every regiment certainly belongs to the soldiers of the regiment, and if not wholly employed in clothing, the surplus ought to be divided among them, or employed some way for their benefit; the colonel has no right to put a shilling of it into his own pocket.

I was likewise surprised, Sir, to hear it said, that no alterations or amendments had been lately made to our military laws, when every one knows, that great alterations, I shall not call them amendments, have been made both to the Mutiny Bill, and to the Articles of War, within these last three or four years: nay, this very power, which the colonel has over the staff-officers of his regiment, has been but lately brought into our articles of war; and it is no excuse for any oppressive regulation, to say, that it is founded upon an old custom, for such a custom, when taken notice of, instead of being confirmed, should be abolished, by a written law; this was what induced me to offer this clause to your consideration, which must, I think, be approved of by every gentleman who believes the story I have related; and if any one doubts the facts, he may easily satisfy himself, by calling in and examing the two men, who are now attending at your door.

Lord *George Sackville:*

Sir; whatever doubt I may have as to the truth of the facts related to us by the hon. gentleman who spoke last, I have not the least doubt of his having had such an information; and I am fully convinced, that he believed his information to be well founded; otherwise he would not have communicated it to the House: but from the very nature of the facts related, I cannot think, that they furnish us with a sufficient reason for abolishing a custom, or a power, that has so long prevailed in our army, and which, when properly exercised, must always contribute to the preservation of that authority, which every colonel ought to have over the regiment he commands; and this power is the less liable to objection, because if it should ever be improperly exercised, the error might be corrected by a board of general-officers, who would order the colonel to replace a serjeant, whom he had reduced and turned into the ranks, for a reason which he could not justify.

Now suppose, Sir, that the two men at your door, upon being called in and examined, should, and I believe they would, give the same account that the hon. gentleman has done; nay, I will go farther, I will suppose the facts to be true; yet can it be supposed, that they can tell the motives which the colonel had for turning them into the ranks? Can any one with certainty tell those motives but the colonel himself? He might have had other motives for doing what he did, and such motives, perhaps, as these men would industriously conceal, even though they were sensible of their being well founded. But again, suppose that the colonel had no other motives than what are alleged, I will say, that it would be a very ungrateful return in us, to take a power from the colonel, which he seems to have exercised purely out of regard to the freedom of our elections; for nothing can be of more dangerous consequence to the freedom of elections, than the army's intermeddling, or the soldier's interfering, in any of those mobs that usually happen upon such occasions. If this should ever become customary, as the noble lord was pleased to observe, another Caius Marius may arise in this country; for I must suppose that it was by a mob of soldiers, the Roman Caius Marius got the candidate for the tribuneship murdered, who set up against his interest. Therefore, whatever the serjeant might think, a soldier's joining in such a mobbish cry at an election, was not such a trifling matter: it was a matter of such consequence, that he ought to have taken notice of it, and of the man that was guilty of it; and he ought to have made it a part of his report to the commanding officer.

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upon guard. His not doing so, was a neglect of duty; but as this neglect proceeded probably from his ignorance as to the consequence, the punishment, if it can be called a punishment, may be thought too severe; therefore, instead of coming to this House to complain, where surely he can meet with no redress, he ought to have made use of his friends to have pleaded his ignorance for his excuse, and to have solicited his being restored, which by this method he might probably have soon obtained.

I have said, Sir, that these men cannot surely expect any redress from this House, and I think I am right in saying so; because it would look like our punishing a colonel for shewing a regard to the freedom of our elections; but whatever you may resolve on, I hope you will not call soldiers to your bar to traduce the character of their officers, unless those officers were likewise present; therefore, however gentlemen may think fit to vote as to the principal question, I hope, no gentleman will be for having those men now called in and examined. If you do resolve to examine them, I hope, for the sake of justice, you will at the same time give the officers an opportunity to justify themselves; but upon the whole I must think the affair of such a trifling nature, as no way to deserve the interposition of parliament, especially as it is of no manner of consequence with regard to the question now before us.

Lord *Strange*:

Sir; whatever the noble lord who spoke last may think, I am far from being of opinion, that the punishment of this serjeant and corporal proceeded purely from a regard for the freedom of our elections. On the contrary, when I consider what a number of the officers and soldiers of the guards have houses in Westminster, and consequently a right to vote for representatives of that city in parliament, I am apt to think, that this severe punishment was inflicted on purpose to shew to all such officers and soldiers, what they were to expect if they voted for that candidate, in whose favour the poor soldier seemed wantonly to declare himself; therefore I must conclude, that the exercise of this power, at that particular time, proceeded not from a regard for the freedom, but from a design to destroy the freedom of the Westminster election; and for the same reason I am apt to suspect, that if the whole party, with the serjeant at their head, had joined in the opposite cry, no report of it would have been made to the officer upon guard, nor would the omission have ever been termed a neglect of military duty.

But, Sir, let this be as it will, it is evidently an affair that relates to the freedom of our elections, and as it does, we are in duty bound to enquire into it: for if soldiers should be guilty of any illegal practices at an election, they are to be punished by the civil magistrate, and not by their commanding officer; and as many of the staff-officers of the army are, or may be, householders, or freemen of some of our cities or boroughs, we ought to make them as independent of their commanders as is consistent with the nature of military discipline in time of peace, which certainly does not then stand in need of being so strict as in time of war. Nay, if peace continues any long time, and this power which colonels have assumed over the staff-officers of their regiment be likewise continued, I do not in the least question but that a soldier having a vote for a member of parliament, will be a more powerful recommendation for his being made a corporal or serjeant, than any military qualification he can acquire or be endued with: and if this should ever be the consequence, I am afraid, our army would make but a sorry appearance in the next war the nation might be engaged in.

I shall admit, Sir, that we cannot certainly judge of a man's motives for any action or any instance of behaviour; but from the action or instance itself, and from concurrent circumstances, we may pretty confidently guess at them; and when the action appears in itself to be bad, or unjust, we must presume that the motives were not good, which presumption is so strong, that it throws the burden of the proof upon the person guilty; for if he cannot shew and prove, that his motives were good, he must stand condemned in the eye of every impartial judge. Now the action under consideration, that is to say, punishment inflicted upon this serjeant and corporal, is, in my opinion, either wicked, or at least, the punishment was too severe, and consequently unjust. If this punishment was inflicted, as I have already hinted, with a design to influence the Westminster election, by directing all the officers and soldiers of the guards how to vote upon that occasion, the action was wicked; if there was no such design, if the punishment was inflicted only with a design to make staff and other officers

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more exact in their report, and more observant of the behaviour of every soldier under their command, it was by much too severe. But, says the noble lord, the men might have had relief by applying to a board of general-officers: Sir, I have as good an opinion of the officers, especially the generals of our army, as of any set of men whatever; but I have some little knowledge of mankind; and as all or most of our general-officers are colonels of regiments, I must from the nature of mankind suppose, that a staff-officer could hardly expect relief from them, upon a complaint against the rigour and severity of his colonel, who had exercised no power but what was expressly given him by the articles of war.

Therefore, Sir, if these men have been injured, or too severely punished, they can expect no relief but from the justice of parliament, where, I hope, the oppressed shall never apply in vain; and the uncertainty we may be under as to the motives which induced the colonel to reduce these two staff-officers, can be no reason for our not enquiring into this affair; for we may oblige the colonel to declare his motives, and to prove the facts upon which they were founded; and besides, it is in this case highly probable, that the causes or motives for the punishment were declared, before the punishment was inflicted; and we may discover that the true motive was, as I have suggested, to direct the vote of every man belonging to the army, with respect to the election then depending, which would be a discovery of the utmost consequence to the freedom of elections, and to the preservation of our present happy constitution.

For this reason, Sir, I think, we cannot avoid making some enquiry into this affair; but I agree with the noble lord who spoke last in being of opinion, that we should not hear the complaint of any soldier against his officer, without giving the officer at the same time an opportunity to justify himself; for though no one can suppose, that we should proceed to a censure upon any man's conduct, before we had given him time for his vindication, yet, I think, we should not proceed in any formal manner, even to hear the accusation, without the presence of the person accused, because an accusation leaves a sort of stigma upon a man's character, which he must labour under till he has an opportunity to wipe it off. I shall therefore conclude with moving, that this debate may be adjourned but till Friday next; and when you have agreed to that, I shall move, that these two soldiers, and the commanding officer of the regiment, may then be ordered to attend; both which motions will, I hope, be agreed to, as we need be in no hurry about passing the Bill now before us, having time enough for that purpose between this and Lady-Day next, so that two days delay can be of no manner of consequence with regard to the passing of the Bill; but a thorough insight into this affair, is certainly of the greatest importance, with regard to the question, whether we should agree to the Clause now offered to be added to the Bill.

Mr. *William Pitt:*

Sir; the question as to the Clause now offered to be added to this Bill, I thought a question of so little importance, that I was resolved not to have given you the trouble of hearing my sentiments upon the occasion; but the debate has now taken a different turn, and a turn which I think of the utmost importance. What! would you call officers and soldiers to traduce and impeach one another at your bar? This, Sir, might be of the most dangerous consequence to the very existence of this august assembly. I hope neither will ever learn the way to this House. If they should once learn the way of coming here with their complaints, we may expect that they will soon learn the way of coming here with their petitions and remonstrances, as they did about a century ago; and the consequence at that time I need not desire gentlemen to recollect.

Our business, Sir, is to consider what number of regular forces may be necessary for the defence of the nation, and to grant money for maintaining that number; but we have no business with the conduct of the army, or with their complaints against one another, which belongs to the king alone, or such as shall be commissioned by him. If we ever give ear to any such complaints, it will certainly produce one of these two consequences: it will either destroy all manner of discipline and subordination in the army, or it will render this House despised by the officers, and detested by the common soldiers of the army; and either of these consequences would be fatal to the nation. If the common soldiers should be encouraged to come here with their complaints against their officers, and should, upon

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every occasion, find redress, it would soon put an end to their having any dependence upon, or regard for, their commanding officers, without which no discipline can be preserved. On the other hand, if the soldiers should come here with their complaints, most of them would be found to be unjust, so that they would very seldom find the redress they expected, which would make them in a short time conceive a detestation for parliament, and the officers would either conceive a contempt for it, or by being so often put to trouble and expence by such enquiries, they would generally desire to get rid of it, which would make it easy for some ambitious prince or general to put an end to the very being of parliament.

Therefore, Sir, whatever you may do with the Clause proposed to be added to this Bill, I hope, you will not give yourself the trouble to make any enquiry into the complaint now laid before you; for there cannot, I think, be the least pretence for saying, that it any way relates to the freedom of elections, or to the election now depending for Westminster. It relates wholly to the duty of a serjeant sent out with a party upon a command, who certainly ought to be very minute and circumstantial in his report. It is not for him to judge, nor can he know what incidents may be worth or not worth reporting: he is to leave that to his commanding officer; therefore he ought to report every incident that happens, even though it may to him appear trifling; and as dangerous mutinies and seditions have often arose from a very trifling circumstance, I must think, it was very impudent in a soldier under command, to join in any popular cry he heard in the streets, it was negligent in the serjeant to take no notice of him, and a much more heinous neglect of duty to take no notice of this in his report, especially at a time when there was such mobbing in the streets, and such a seeming inclination in the populace to be riotous. But whether the punishment was too severe, is a question which I shall not take upon me to determine, and I must say, that I do not think it a question proper for this House to determine: I think it belongs much more properly to a court-martial, or to a board of general officers, and to them we ought to leave the determination; therefore, I hope this affair will be entirely dropt, and the question put upon the Clause now before us, which, I think, has nothing to do with this affair; for whether the power which the colonel has over the staff-officers of his regiment, was made a good or a bad use of upon any particular occasion, is not surely to determine our judgment as to the continuance or abolition of that power, but whether it is a power that is necessary even in time of peace for preserving discipline in our army, and rendering it useful in time of war.

If for these purposes, Sir, the continuance of this power be thought necessary, I am sure, we have no occasion to frighten ourselves with the influence that staff-officers may have in elections; for unless it be in Westminster, I hardly believe there is any place in the kingdom where a staff-officer has a vote for members of parliament; and in Westminster, where there are so many thousand electors, surely the votes of three or four score serjeants can never be of any great weight in either scale. To this I must add, Sir, that as a colonel's life as well as character very often in time of war depends upon the behaviour of his regiment, I believe, every colonel will chuse to have a regiment of brave and well disciplined soldiers, rather than a regiment of voters at any election.

General *Oglethorpe:*

Sir; I believe every gentleman knows, that when a motion is made for repealing any law, or for abolishing any power that has been established by law or custom, those who favour the motion are never put to prove an abuse: it has always been deemed sufficient for them to shew, that the power is liable to be abused, in order to induce the House to abolish that power, or to put it upon some such new establishment as may prevent, as much as possible, its being any longer liable to be abused. For this reason I do not think the complaint now before us of any very great importance to the principal question under consideration; but at the same time I must declare against the principle laid down, that this House is never to take notice of the complaints made by the army or by any man, or any sort of men, in the army. I hope both the officers and soldiers of the army are all subjects of Great-Britain; and it is our duty to take notice of every complaint made to us by any British subject, unless upon the face of it, it appears to be frivolous or unjust. Nay farther, as we are the great inquest of the nation, it is our duty to enquire di-

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ligently if any of the subjects of Great-Britain be exposed to, or labouring under any, and what oppressions, and to take the most effectual method for procuring them relief.

This, I say, Sir, is our duty, and I wish we would attend to this part of our duty more frequently than we do, especially with regard to that part of the British subjects who serve in our armies either by sea or land: for they are by the nature of the service more exposed to oppression, than any other part of his majesty's subjects, and it is likewise much more dangerous for them to complain. I am far from apprehending, Sir, that our giving ear to complaints, or enquiring into oppressions, will ever bring parliaments into contempt or detestation with any part of the people; but if we entirely neglect this part of our duty, parliaments may become contemptible, and, on account of the taxes they impose, detestable, to much the greatest part of the people both in and out of the army. As it is not a very long time since we had a standing army, there cannot be many examples of complaints being brought by officers or soldiers before parliament; but in king William's time, when standing armies were first kept up by authority of parliament, there were several enquiries and complaints, and not only soldiers but even recruits were examined at the bar of this House in relation to the behaviour of the officers towards them. Even but very lately, as every gentleman must remember, there was a committee appointed by this House to enquire into several things relating to the army, and though the power of that committee was, by the order, very much confined, yet their enquiry produced a very good effect, and gained the applause of every man in the army. Suppose we should now and then reject a frivolous, or punish an unjust complaint, can we imagine that this would bring upon parliament the detestation of the soldiers? No, Sir, a common soldier has common understanding as well as other men; and every one of them not concerned in the complaint, would judge impartially, and approve what the parliament had done. Nothing can bring us into contempt, but our refusing to hear a just complaint when properly brought before us, or our neglecting to give redress to the party injured, when the facts have been fully proved; and in particular, we ought to be attentive to the complaints of the common soldiers, because it is very difficult for them to obtain redress by any other method.

Let us consider, Sir, that a board of general officers, or a general court-martial must be appointed by an order from the crown, or the commander in chief, when there is one appointed by the crown: when a commissioned officer has been injured by his colonel, he may have interest enough to obtain such an order; but how shall a poor soldier obtain it, when he has been injured by his colonel? A regimental court-martial he cannot trust to for relief, even supposing that the colonel should order one at his request; and a general court-martial he cannot obtain, because it is so difficult for him to get access, either to the crown, or the commander in chief; but to a member of this House he may get access: by means of that member he may get justice done him by parliament; and now and then an instance of this kind would attach all the soldiers to the parliament, and would be a continual check upon those officers that are apt to oppress and tyrannize over the soldiers, that have the misfortune to be under their command; for though I have the pleasure to think, that there are few such officers in our army, there must always be some, and nothing can be a more effectual check upon their conduct, than the parliament's giving ear to every soldier's complaint, that appears to be just and well founded.

That this would be of any prejudice to the discipline of our army, there is not, Sir, the least ground to apprehend: can oppression and tyranny be necessary for preserving discipline and subordination in an army? Shall such a doctrine ever be adopted by a British House of Commons? On the contrary, do not we know, that discipline, subordination, and, what is of still more consequence, the courage of the soldiers, are preserved by just and gentle usage? And this I take to be the chief reason, why the common soldiers of the British army face danger with more intrepidity, and with more alacrity, than the common soldiers of any nation under the sun. Do not, therefore, let us encourage brutal officers, if any such there are, or should ever be in our army, to use the soldiers ill, by laying it down as a maxim that the parliament must never intermeddle in any disputes or differences, that happen in our army.

To refute this doctrine, Sir, which I

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thought of such dangerous consequence, was the only end of my standing up, and therefore I shall not take up your time with giving you my opinion upon any of the other points now under our consideration, but conclude with observing in general, that I shall always be jealous of a power, the exercise whereof, is trusted to the absolute and arbitrary will of a single man; nor do I think, that any such power can ever be necessary in time of peace; for though in time of war such a power must often be granted, yet even then it ought to be as little made use of as possible.

The House then divided: Ayes 109. Noes 178. So it passed in the negative.

*Debate in the Commons on the State of the Port and Harbour of Dunkirk.**] Feb. 5. A motion was made in the House of Commons by the earl of Egmont, and seconded by sir Edmund Thomas, "That an humble Address be presented to his majesty, that he will be graciously pleased to give directions, that there be laid before this House, a perfect Account of the present State of the Port and Harbour of Dunkirk, together with copies of all memorials, representations, letters, and papers, that had passed between his majesty's ministers and the ministers of the French king, in regard to the execution of the 17th article of the definitive treaty concluded at Aix la Chapelle, upon the 18th of October, N. S. 1748.

The Earl of *Egmont* said:†

Sir; the late most notable treaty of peace had so many and so great concessions in favour of our enemies, and so few in favour of ourselves, that the utmost care should, I think, have been taken to have those few complied with in the most precise and speedy manner. We have already most faithfully, though foolishly, performed every article of that treaty on our part; and yet, if public or private accounts can be depended on, the French have not on their part performed any one article, that relates to this nation. It is now sixteen months since this definitive treaty was concluded; and well it may be called a definitive treaty with respect to us; for if we dare not insist on the performance of what France was thereby graciously pleased to promise, I will say, that it may most properly be called a definitive treaty; for by putting it out of our power to dispute, it has put an end to all disputes between us. In that time we have most punctually performed every thing incumbent upon us: we have restored the important island of Cape Breton, I believe, in a better condition than it was when our brave countrymen of New England made themselves masters of it: nay, we have withdrawn from and abdicated the island of Rattan, though it was not, certainly, a conquest, but a new settlement, and consequently not within the words of that article of the treaty, by which all conquests were to be restored.

On the other side, Sir, what have the French done with regard to us? We have as yet no account, and, I am afraid, shall not soon, if ever, have an account of their evacuating Tobago and the other neutral islands in the West Indies, which they have possessed themselves of, contrary to

* From the London Magazine.

† "Feb. 4. Lord Middlesex, by the Prince's order, showed me a motion to be made the next day, for an account of the state of the port of Dunkirk, and the papers that had passed on that subject. It was agreed, that I should wait on the Prince the next day.

"Feb. 5. I waited upon his royal highness, and told him that I was come to thank him for communicating the motion to me, which was more than any of my fellow-servants had condescended to do, since I came into his service. He made me a very embarrassed and perplexed answer. I then proceeded to say, that I had not been idle, but had been looking into several things, in order to form something proper to be laid before parliament. That I had long had this particular point of Dunkirk under consideration: was determined to be at the expence to know, and to procure evidence of the present state of it, but my acquaintance lay so much out of the mercantile way, that I was at a loss how to go about it; that I had pitched upon Mr. sheriff Jansen, being a trader himself, and much conversant in trade, as a proper person to inform and assist me: that the great fit of sickness he fell into had, till now, disabled him from going out, and that yesterday was the first time I could get him to dinner. That I supposed, that, though I was so unfortunate as not to be ready, his royal highness was well informed of all things necessary to make out the charge, &c. He said, No; but the throwing it out, would make the ministry feel they had *la corde au col*, and it was an opportunity to abuse them, &c. I said that my idea had been, to bring something of national weight, which I could fix by undeniable evidence upon them, and leave it there. That if I could have brought this affair up to that point, then I had designed

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the treaties subsisting between us: our boundaries in North America still remain unsettled, and Madras in the East Indies remains unrestored to us. But what is still of greater consequence to this nation, the port and harbour of Dunkirk remain undemolished, notwithstanding the concession we made them by the late treaty, in giving them leave to re-fortify the town towards the land.

Sir, when I first read the treaty, and found that we on our side were to give hostages, but that France was to give none on her side, I naturally concluded, that we were to be the last performers: I mean, Sir, that we were not to restore Cape Breton till France had performed on her side every thing she had undertook to perform by that treaty; and I appeal to every man of sense that hears me, if this was not the most natural supposition one could make, when he found that hostages were to be given on one side, and none upon the other. If this had really been the intention, the French would have had some reason to insist upon our giving hostages, and we might with honour have agreed to it. But as the case now appears, as we were to restore Cape Breton before the French performed any one article with regard to us, I cannot suggest to myself any reason the French could have for demanding hostages from us, unless it was to put an indignity upon us; and this, I am sure, with negotiators of honour or spirit, would have been an invincible reason for rejecting the demand with disdain. After our submitting to such an indignity, Sir, I do not at all wonder at the French despising us, and refusing, or at least delaying to perform their engagements: I am persuaded, they never will fully perform them, whilst those who were the authors of that submission, have any weight in our councils, or concern in the conduct of our public affairs.

But the non-performance of France, Sir, is not all we have to complain of, that of Spain is still more provoking and more insufferable: I say, more provoking and insufferable; because of the impotency of that nation to hurt us, and because of our not insisting at the late treaty, on all the concessions and explanations we had a right to demand, and indeed ought to have been peremptorily required, if our negociators had considered the honour, the commerce, or the navigation of their country. When I say this, Sir, I believe every one will suppose I mean, that our negociators ought to have insisted upon the court of Spain's giving up, in the most express terms, their late pretence of a right to search our merchant ships in the open seas

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to lay it before his royal highness, with this only remark, how far he thought proper to venture the consequences with France, in the present condition of this country. He said, the Tories wanted something to be done, and if he did not do something, they immediately thought he was negociating. I told him also, that I had been, for some time, getting such lights as I could into the affair of Nova Scotia, that I designed to lay it before him, when I had brought it to be worthy of his consideration; but it was my misfortune to think, that it was necessary to be armed with full proofs and conviction of every sort of the charge, before we brought it into the House. Upon that foot I submitted, that, in case upon this question of Dunkirk, it should come out, that the port was left just in the same condition it remained, under the treaty of Utrecht, without any innovation since the war (the ministry not having already enforced a stricter execution of that treaty, than ever had been enforced), it would not, I feared, make a very strong point against them. He was pleased to say, No, to be sure, so long an acquiescence would greatly diminish the objection. Upon these words I left him, and went directly to the House. In the debate, I argued against the inexpediency and dangers (which were the objections, set up by the court, to granting these papers), that there could be none, because if it appeared that there had been no innovations since the war, and that the post was in the state it had remained under the treaty of Utrecht—though I did not give it up, but still did insist we had a right to a fuller execution of that treaty confirmed by this, and therefore I did not give it up. Yet, if that appeared to be the case, no danger or inconveniency could arise from the motion, because I was sure that I, for one, would not, and I believed that no gentleman, upon that account, would move any thing, that might occasion a rupture with France.

"At the end of the debate, lord Egmont, who made the motion, recapitulated what had been said against it. He began, by going out of his way, to say, that he must first declare, that he was sorry to differ with me; but did not agree, that it would be sufficient to excuse the ministry, if it should appear, as I had stated it, that things remained at Dunkirk, as they were left before the war, &c. &c. I was much surprised at this, considering the expressions of his royal highness a few hours before. We were beat by a very great majority.

"Feb. 6. Went to lord Middlesex with the words (as near as I could recollect) written down, which I had used in the debate, and which he had heard. He agreed to them: I then desired him to lay them before the Prince." **Dodington's Diary.**

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of America, and to seize and confiscate them, if they found any thing of what they call contraband goods on board. And as they had, for many years before the war began, made use of this pretence for plundering our merchants, to the amount of a very large sum of money, every one will, I believe, admit that our negociators ought to have insisted upon their paying a certain sum, by way of satisfaction to our injured merchants; for we must all remember, that their refusing to do this, was the chief cause of the war; and I am sure, it is no great honour to a plaintiff, after a long suit, not only to give up his demand, but to agree to bear his own costs; for it is a strong presumption, that his suit was originally vexatious.

But, Sir, instead of insisting upon all or any of these demands, it does not appear that they were so much as mentioned in the negociation, nor is there one word relating to any of them in the treaty; for to leave them upon the footing of former treaties, was to give up the points in question, because it was upon those treaties that Spain pretended to found her right to seize, search, and confiscate our ships; and if she had really such a right, she had never done our merchants any injury, nor could we with justice demand any sum by way of satisfaction; therefore our desiring no more than a confirmation of former treaties, was a tacit acknowledgment of our having been in the wrong, when we issued reprisals, and afterwards declared war against Spain; and if the parliament approves of the conduct of an administration that made such an acknowledgment, it must either be of a very different opinion from what it was in the year 1739, when both Houses concurred in addressing his majesty in the most solemn manner, never to admit of any treaty of peace with Spain, unless the acknowledgment of our natural and indubitable right to navigate in the American seas, to and from any part of his majesty's dominions, without being seized, searched, visited, or stopped, under any pretence whatsoever, shall have been first obtained, as a preliminary thereto.

I say, Sir, the parliament must now be of a very different opinion from what it was at that time, or it must be of opinion, that the misfortunes of the war had brought us into such a low and wretched situation, as to be forced to fall upon our knees, and, with a rueful countenance, present a *carte blanche* to our enemies. Can any one pretend to say that, with all the bad management of our ministers in the conduct of the war, we were brought into such a situation? Some of our allies upon the continent were perhaps in a dangerous condition; but it was what the pusillanimity and selfishness of their conduct highly deserved; and if they should have been obliged to present a *carte blanche* to their enemies, was that any reason for our doing the same? Were we in any danger? Were not our fleets triumphant in every part of the ocean? Were not the whole commerce both of France and Spain, and all their settlements in the East and West-Indies, I may say, at our mercy? And in such a situation, can any minister answer his having agreed to a treaty, which was so inconsistent with the honour and interest of the nation, and so contrary to the declared sense of both Houses of Parliament?

I hope, Sir, nay, I am persuaded, that a day will come, when that treaty will be strictly enquired into; and for the sake of those who were concerned in it, I wish it may be soon; for punishment, the longer it is delayed, the more heavy it will always fall. From the present lethargy, or consternation, which the nation seems to be in, they may obtain a delay; but the fatal consequences of that treaty, the many indignities and injuries we shall be exposed to, and must certainly meet with, will at last awaken us out of our lethargy, or recover us from the consternation which that treaty threw us into; and then they will find fulfilled the prophecy of a famous poet; for all poets pretend to be inspired:

> Raro antecedentem scelestum
> Deseruit pede poena claudo.

At present the nation only forebodes the evils to come, and might be satisfied with a moderate punishment upon those it looks on as the authors of them; but in a little time we shall begin to feel those evils, then national revenge will be sharpened by the smart, and nothing but the most rigorous punishment will satisfy an enraged, provoked, and desperate people.

The neglects, or rather submissions, I have mentioned, Sir, were what we had reason to complain of as soon as we saw this definitive treaty; but we have now something more to complain of, for though we have been so very complaisant to Spain as to desert the settlement we had made in the island of Rattân, which, as I have already observed, we were not by the treaty obliged to do; yet Spain, under what pretence I know not, still postpones



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the performance of the only article stipulated in our favour, I mean that article relating to the assiento contract. In this too, as well as every thing else, we gave up by the treaty a great part of what we had a right to insist on; for by the assiento treaty we were to enjoy that contract, and consequently the privilege of sending an annual ship to the Spanish West-Indies, for a term of 30 years, which, by a subsequent treaty, was to commence May 1st, 1714, and for which term we paid a valuable consideration; so that if this privilege had met with no interruption, it ought to have continued at least to the year 1744; but as it was for several years, I believe for six or seven, interrupted by the breach between Spain and us in 1718, and again in 1726, we ought in this last treaty to have insisted upon a prolongation of that contract to 1750 or 51. I say, we had a right to insist upon this, unless it be supposed that the interruptions were occasioned by our acting unjustly in both our breaches with Spain; and therefore our submitting to stipulate a continuation of that contract only for four years, was an express acknowledgment, that both in 1718 and 1726 we had acted unjustly with regard to Spain.

Thus, Sir, in every point the honour and interest of this nation have been sacrificed in the late treaty; and so ungrateful are the Spaniards to those who have made them such a sacrifice, that they refuse to allow us the enjoyment of this contract even for the four years which they have promised by the late treaty. I say, Sir, refused; for if our ministers had not, I am persuaded, the directors of the South Sea Company would have asked for a cedula for sending out their annual ship, the first of which should, by the Convention in 1716, have sailed some time in July last. But instead of this, we do not so much as hear of any preparations for sending out a ship in the month of July next; which to me is a proof not only that the ministers of Spain have resolved not to perform that article of the late treaty, but that our ministers are resolved to connive at that non-performance, or at least to do nothing but negociate, which they may continue to do, as a late minister did, for near 20 years, without any effect.

Sir, I should not have troubled you so long with a criticism upon the late treaty of peace, or upon the non-performance of the few articles that were stipulated by it in our favour, but in order to shew gentlemen how necessary it is become for this House to interpose, and to desire his majesty, in the most dutiful manner, to see those articles performed, or to take such measures as may enforce a speedy and punctual performance of them. With regard to such of them as relate to Spain, or to the East or West Indies, I know that our ministers will plead an excuse for the intricacy of the points to be settled, or the remoteness of the places where a performance is to be made; but neither of these can be pleaded with regard to Dunkirk, and I am in the more pain about that Article, as it seems to me to be a little dark and equivocal. That Article, which is of such infinite importance to this nation, is the shortest in the whole treaty, except the Article for a mutual guarantee, and it is conceived in such equivocal terms, that, for what I know, the French may from thence contend for a right to render that port and harbour as good, and as commodious for building as well as receiving ships of war, as it was in the most flourishing days of Louis 14.

The Article is in these words: "Dunkirk shall continue fortified on the land side, in its present state; and as to the sea side, it is to remain on the footing of ancient treaties." This is the whole of that Article, Sir, and the word 'Ancient' is what I find fault with: it is not only equivocal, but it is really a very improper word; for it is the opposite to modern, and therefore by the French may be said to mean only such treaties as were antecedent to the treaty of Utrecht. We know how dexterous the French are at putting that meaning upon the words of a treaty, which best suits their interest; and if they should put this meaning upon the word 'Ancient,' it would be far from being such a forced meaning as they have often put upon the words of a treaty. To which I must add, that we furnished them with an excellent opportunity for doing so, by allowing the treaty to be originally drawn up in the French language; for all the world must allow, that they are the best judges of their own language, and of the proper meaning of every word in it. How we came to approve of this concession, I do not know; for, surely, our plenipotentiaries understood Latin, and if they could not write Latin, the famous university at Cambridge might surely have furnished them with a Latin secretary: for it would certainly have been an advantage to us and all our allies, to have had the treaty

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originally drawn up in Latin, because we could then have pretended to be as good judges of the meaning of every word in it as the French, which in its present form we cannot pretend to.

I shall not therefore, Sir, venture to determine what meaning the French will put upon the word 'Ancient;' but I hope, our ministers intended to mean thereby the treaty of Utrecht, and the other treaties since made for demolishing the port and harbour of Dunkirk, by which it was stipulated, that the harbour should be filled up, and the sluices or moles, which served to cleanse the same, levelled, at the French king's own expence, on the express condition, that the harbour, moles, or sluices, should never again be repaired, nor any new port, haven, sluice, or basin, made or built within two leagues of Dunkirk or Mardyke. This, Sir, I say, was, I hope, the intended meaning of our ministers, and if it really was so, why have they not in 16 months time seen it punctually performed? For even from our Custom-house books it will appear, that there is still a port at Dunkirk, and that ships are entered for that port and cleared out from it daily. In this affair they cannot pretend that there is the least intricacy, unless some foundation has been laid for it by our late definitive treaty; and as the place is, I may say, just under their nose, and the court of France within three days journey, they cannot pretend ignorance of what has been doing at the place, or want of opportunity for applying to have every thing done that ought to be done there, in pursuance of the late treaty.

But, Sir, as nothing has yet been done towards demolishing the harbour of Dunkirk; as that harbour continues still not only in the condition to which it was most presumptuously restored before the war began, but in the improved condition to which it was brought during the war; I begin to suspect, that the French, according to their usual custom, now put that meaning upon the word 'ancient,' which is most suitable to their interest; and that from thence they contend, that by the late treaty they neither promised nor are obliged to demolish the harbour of Dunkirk, or any of the works they have lately made there; but on the contrary, that they may now, whenever they please, restore that town and harbour to as good a condition as they were ever before in. If this be really the case, I am very sure, the parliament ought to be, and has a right to insist on being, apprised of it: nay, whether it be so or not, as the affair is of such consequence to this nation, and has been already so long delayed, it is our duty to enquire into the cause of that delay; and therefore I shall conclude with moving, "That an humble Address be presented to his majesty, that he will be graciously pleased to give directions, that there be laid before this House, a perfect account of the present state of the port and harbour of Dunkirk, together with copies of all memorials, representations, letters, and papers, that have passed between his majesty's ministers and the ministers of the French king, in regard to the execution of the 17th article of the definitive treaty concluded at Aix-la-Chapelle, upon October 18, N. S. 1748."

Mr. *Henry Pelham:*

Sir; from the first and greatest part of the noble lord's harangue, I supposed, that he was to conclude with a motion for enquiring into the late negociation and treaty of peace, which I should have been glad to have heard, for I shall readily concur in that motion, whenever any gentleman pleases to make it, because I am convinced, that, let that enquiry be made when it will, it will be evidently made appear, that the late treaty of peace saved not only this nation, but the liberties of Europe. I shall readily agree, that the terms of peace were not so good as might have been, and, I believe, were expected, when we first engaged in the war; but after the many disappointments and defeats we had met with, and the rapid conquest the French had made not only of the Austrian Netherlands, but of almost the whole that the Dutch possessed in Flanders or Brabant, no reasonable man can find fault with our agreeing to the terms of that treaty.

On the contrary, Sir, every man who considers the then circumstances of Europe, will find cause to wonder, how we were able to obtain such good terms as we did; and I am convinced, that the French yielding to those terms was more owing to the jealousy of some of their own ministers, than to any apprehension they were under of seeing a stop put to their conquests. One campaign more, without some signal and extraordinary intervention of Providence, would have made them masters of the seven Dutch provinces, either by conquest, or by the Dutch accepting of such terms as they pleased

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to prescribe; one of which would certainly have been an offensive alliance against this nation, which the Dutch would have heartily gone into, if we had refused to sacrifice the barren and uncomfortable island of Cape Breton to the saving of their country and the whole Austrian Netherlands. And if the Dutch had heartily joined with France in an alliance against us, I believe, we should not long have preserved our superiority at sea, the loss of which would soon have put an end to our sitting here, to debate about the demolition of Dunkirk, or any other point relating to the honour or interest of Great Britain.

For this reason, Sir, and a great many more, I am not at all afraid of any bad consequences from a present or future enquiry into the late treaty; and therefore, as I have said, I should have been glad to hear the noble lord conclude with such a motion; but I own, I was extremely sorry to hear him conclude with such a motion as he did. This House has, without all doubt, a right to enquire into any affair of a public nature, either foreign or domestic; but when, or how far we may exercise that right, is a question of discretion, which requires the utmost caution, and the most mature deliberation; and so far as my reading or experience can reach, I have observed, that a parliamentary enquiry into any foreign transaction, has much oftener been attended with bad than with good consequences to the nation. By the parliament's meddling so much as it did with the disputes between us and Spain, we were precipitated into a war with that nation, which might have been prevented, and which it will always be our interest to avoid as much as possible; and by this motion, should it be agreed to, we might be precipitated into a war with France, at a time when every circumstance should make us fond of preserving peace.

I say, Sir, when every circumstance should make us fond of preserving peace, it is, I know, an ungrateful and an unpopular task, to inform the people of any country of their own weakness, or to endeavour to persuade them that they are not a match for those they think their enemies; but this is the duty of every man, who has a share in the conduct of their affairs, when he finds them aiming at war, or at measures that may bring on a war, at an improper conjuncture. If the Swedish ministers, before their late war with Russia, had in this respect performed their duty to their country, that nation would have avoided the disgrace it met with, by engaging in a war it was no way able to support. For this reason, Sir, I think myself in duty bound to declare, that in our present loaded condition, when the people are so burdened with taxes, and most of those taxes mortgaged for the payment of debts, it is my opinion, that we are no way able to stand single and alone in a war against the whole House of Bourbon; and the circumstances of Europe are such at present, that it would be impossible for us to form a confederacy upon the continent, that would not be a burden rather than an advantage to us.

In these circumstances, Sir, would it be wise in us to provoke a war? Would it not be more wise even to dissemble our being sensible of wrongs, to delay insisting upon what we had a right to demand, and to wait with patience till a convenient opportunity happened for doing ourselves justice? Has this motion any such tendency? Has not the whole scope of the noble lord's discourse a direct contrary aim? The question will shew, that some amongst us have a jealousy, a suspicion of the faith of France. Should it be agreed to, it will be a proof, that the parliament itself is infected with that jealousy; that we have no confidence in their promises; and that we are already endeavouring to pick holes in the late treaty of peace. Can we suppose, that this will be any argument for inducing them to comply with any of the terms of it not already fulfilled? And if they should refuse, can we compel them to perform by any other method than that of commencing a new war? Should not we, before we resolve upon such a measure, consider whether we are able to prosecute such a war with any view of success? And if we find we are not, should not we delay coming to any such resolution?

This, in my opinion, Sir, should be our conduct at this unlucky conjuncture, even supposing that France or Spain had refused, or unreasonably delayed complying with any of the terms of the late treaty. But neither the one, nor the other, have done so. The court of France have long since dispatched an order for restoring Madras; It was dispatched long before they heard of our having restored Cape-Breton; and this I can assert with the more confidence, because I have seen a duplicate of the order. They have likewise sent orders for evacuating Tobago;

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and their having done so, was some time since published at Paris, I believe by authority, in order to prevent any of their people's thinking of going thither to settle. As to Dunkirk, if they have not already sent orders to demolish the works they erected during the war, for the defence of that harbour, it is because it is a matter of very little moment, whether they be demolished a few months sooner or later: for in a time of peace, they can be of no prejudice to us, nor of any advantage to them; and I do not think it proper for us, at present, to insist upon having the harbour made entirely useless, even for small trading vessels. Lastly, as to the limits or boundaries of Nova-Scotia, it is an affair that must require a long discussion before commissaries, who have already been appointed.

Then, Sir, with regard to Spain, it is very well known, that there were many contests between that court and our South-Sea Company before the war began, all which must be adjusted before the Company can expect to be permitted to send out the annual ship stipulated by the asiento treaty, which is an affair of so much intricacy, that we cannot wonder at its not being yet settled. Besides, I doubt much, if it would be worth the Company's while to engage again in that trade, unless they can get the term renewed for a much longer time than four years; because they must at first be at a great expence in sending out factors, and establishing factories, at the several Spanish ports in America, where the trade is to be carried on, and this expence could not probably be made good by a trade, which was to last but four years.

We have therefore, Sir, as yet no reason to complain either of France or Spain's not performing the articles stipulated by the late treaty in our favour; and both of them have so punctually performed all the engagements they entered into with regard to our allies, that we have no reason to doubt of their performing every engagement relating to us, as soon as the nature of things can admit, unless we prevent it by unreasonable suspicions, and by unseasonable manifestations of our suspicion. It may be prudent enough, in public as well as private life, to entertain a secret suspicion of the faith of every man we deal with; but surely, it would not be prudent to shew any sign of that suspicion, unless we had very good ground for it: and I cannot think that what would be foolishness in a private man, can ever be wisdom in any public assembly. If we apply this, Sir, to the question now before us, we shall see it in its true light, and no man who does, will ever give his consent to it.

What I have said, Sir, will, I hope, be sufficient for convincing gentlemen, that we have as yet no occasion to meddle with any thing relating to the execution of the late treaty; and therefore I should have given you no further trouble, if the gentleman who spoke before me, had not thrown out several objections against the treaty itself, though not at all material in the present debate, nor proper upon any occasion, unless they were to be followed by a motion for enquiring into the treaty, and the conduct of those who advised it. But as they digressed so far from the subject under consideration, I hope the House will indulge me with leave to attempt some sort of answer to every objection they have made. I have already acknowledged, that the treaty was such a one as we were forced to accept of, by the disappointments and defeats we had met with in the prosecution of the war, and by the imminent danger our allies the Dutch were exposed to. There were several other reasons not proper to be publicly declared; but one I may mention, which was the danger of our public credit. The tides of public or private credit are not equal, like the tides of the ocean, and directly contrary to what we have in this river: they are slow in their flood, but extremely rapid in their ebb; and every one knows, that just before the conclusion of the peace our public credit had taken a turn: the ebb had begun, and no one knows how quickly, or how far it might have gone downwards; it might soon have gone so far, that we should neither have been able to send an army to the field or a squadron to the ocean; and in such a dangerous situation, would it have been prudent in us to insist upon high terms of peace?

If we take this consideration along with us, Sir, I believe, it will be very easy to answer all the objections that have been or can be made against the late treaty of peace. Let us consider, Sir, that the large and extensive conquests made by France and Spain were all, except Madras, upon the continent of Europe, whereas neither we nor our allies had made any conquest except Cape Breton in America, which was of no manner of consequence to us, but of so great importance to France, that in order to have it restored, she offered to re-



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store the whole of what she had conquered in the Austrian Netherlands, and in Dutch Flanders, and Brabant; and supposing we had thrown aside all regard for our allies, will any gentleman say, that it was not more for the interest of this nation, to restore to France the possession of Cape Breton, than to leave her in possession of Hainault, Flanders, Brabant and Namur, and consequently of the whole coast, from Zealand to the westermost part of Bretagne, together with an additional territory, that would have furnished her with a great number of seamen as well as a large revenue?

This sure will not admit of an argument, and therefore, Sir, I shall conclude, that our restoring Cape Breton upon this consideration, was for the interest of England, without any regard to our allies, or to the balance of power in Europe. But then, Sir, as France was without delay to restore her conquests in the Netherlands, and not wait for our restoring Cape Breton, it was necessary for her to insist upon hostages for securing the restitution of that place; and as we were thus to be the last performers, it was reasonable for us to comply with her demand. We had no occasion on our part to ask for hostages, because the restitution of the Netherlands was to be immediately performed, and Madras was of so little moment, that we might safely depend upon a solemn engagement, especially as we had then a superior force in the East Indies, and had reason to believe, that we should soon have retaken Madras, and made ourselves masters of some of the French settlements in that part of the world.

Thus, Sir, the restitution of Cape Breton, and the sending of hostages to France, those two handles that have been so much used for raising a popular clamour against the government, will, when duly considered, appear to have been the effects of necessity, prudence, and a strict regard to the true interest of this nation. And consequently, if it be now out of our power to dispute with France, it must be owing to the late of last war, and not to the treaty that put an end to it, and thereby prevented its being more out of our power than it now is to dispute with that monarchy; which would certainly have been the case, had the war continued, and France thereby become sole possessor, or at least mistress of the whole 17 provinces of the Netherlands.

I shall admit, Sir, and I have already shewn it to be an argument against this motion, that it would not at present be prudent in us to provoke a war with France, by insisting peremptorily upon every thing we have a right to demand; but this does not proceed from the present power of that monarchy, but from the now close connection that subsists between the several branches of the House of Bourbon, and from the present divided state of Germany. These divisions may cease, those connections will certainly cease the very next generation; and then we shall have a much better opportunity for insisting upon a redress of all our grievances, and upon a full reparation of all our wrongs.

But, Sir, if the present circumstances of Europe are favourable for France, I must say, that the noble lord has furnished them with pretences for taking advantage of it, both by the motion he has been pleased to make, and by the comment he has made upon the article relating to Dunkirk. As to the shortness of the article, I never heard it objected either to a law, or an article of any agreement, that it was too short, if the sense was full and plain: the more concise it is, the fewer words it consists of, the less room there is for misconstruction; and as to the word 'ancient,' it certainly relates, or is put in opposition to the treaty then newly concluded, and must comprehend all former treaties, especially those confirmed by that treaty, among which that of Utrecht is expressly mentioned. But as there were other treaties relating to Dunkirk, particularly the Convention in 1716, therefore this general word was made use of, in order to comprehend them all, whether mentioned or no in the treaty then concluded.

Now, Sir, as to the objections made to this treaty, so far as it relates to our disputes with Spain: it is not the first time that the sense of parliament, with regard to future treaties, has been found impossible to be complied with. It was the declared sense of parliament in queen Anne's time, that no peace should be concluded, whilst any branch of the House of Bourbon was in possession of Spain; yet, as successful as we were in that war, we found it at last convenient to conclude a treaty of peace, whereby a branch of the House of Bourbon was established in the possession of that monarchy; therefore no one can be surprised at its being found impossible, at the end of an unfortunate war, to comply with what had been declared to be the sense of parliament at the begin-

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ning of that war, and whilst the advocates for it endeavoured to make people believe, and did actually make most people believe, that we had nothing to do but to go and conquer the whole Spanish dominions in America; but the very first experiment convinced us, that the Spaniards, in that part of the world, were guarded against us better by their climate, than by their conduct or courage; and the emperor's death happening soon after, the ambitious views formed by France upon that occasion, made it necessary for us to think more of defending ourselves at home, than of making conquests in America.

Had the war continued, as it began, to be only a war between Spain and us, and as it was when the parliament declared its sense of any future treaty of peace, it would have been proper enough to have made the freedom of our trade and navigation a preliminary to any treaty between us; but the dispute was of too perplexed a nature, to allow of being discussed in a general treaty; and the leaving it to be discussed by commissaries had been so much found fault with in 1739, and was really in itself of so little signification, that our ministers were in the right not to have it mentioned at all in the treaty, because it could no way have forwarded or contributed to the efficacy of any future negociation upon the subject; and till this affair be settled, we can make no demand upon the crown of Spain, by way of satisfaction for what our merchants suffered before the beginning of the war.

I think it is therefore evident, Sir, that no just objection can be made against the late Treaty of Peace, on account of any of the particular disputes between Spain and this nation. Those disputes had not any immediate relation to the war upon the continent of Europe, though every gentleman that considers what might have been the consequences of that war, must admit, that they had a remote one. France had attempted to prescribe and limit our operations of war against the Spaniards, and had not only sent a squadron to the West Indies for that purpose, but had published a sort of manifesto, avowing her design in sending that squadron thither; but when she saw that we were not to be bullied, nor she able to execute what she had undertaken, she was wise enough to call home her squadron, before it met with the fate it deserved, and the fate it would probably have met with, if it had not left the West Indies before the reinforcement we sent thither could join our admiral.

From hence, Sir, we might easily judge what the consequence would be, even with regard to our disputes with Spain, if France, upon the death of the late emperor, should be able to reduce the House of Austria as low as she designed, and to set up an emperor of her own chusing. Had she succeeded in these designs, she would have had no occasion for keeping up a great army, but might have applied the greatest part of her vast revenue towards increasing her marine, so as to be superior to us at sea; and this she might have accomplished in a year or two at most. Suppose we had, by neglecting the war upon the continent, made in that time some conquests upon the Spaniards: nay, suppose we had forced them to accept of what terms of peace we pleased, and to yield to us some of their principal forts in America, if France had in the mean time made herself the sole arbiter of Europe, and superior to us at sea, could we have hoped to keep those forts, or to hold Spain to her engagements? Nay, could we have expected to preserve our own independency? Must not we, with the rest of Europe, have submitted to the dictates of the court of Versailles?

But, Sir, by our taking such a share in the war upon the continent, and so vigorously supporting the House of Austria, France has been baffled, or at least circumscribed in all her ambitious views; and if our disputes with Spain are not yet adjusted, they are not given up, nor we obliged to obey the dictates of the court of Versailles: nor can any one wonder at those disputes not being yet settled, if the intricacy of their nature be considered. Spain has certainly a right to exclude all foreigners from any trade with her plantations in America: that right has been solemnly acknowledged by us as well as the rest of Europe. The question is, how to reconcile this right with the freedom of our trade and navigation in the seas of America. For this purpose some new regulations must be agreed on; and it is very difficult to contrive any regulations that will not be injurious to the one or the other. I am afraid, it must be at last left, as it has hitherto been, to our mutual discretion.

The general rule, Sir, with regard to visiting ships at sea, is for the men of war, privateers, or guard-ships, to remain out of cannon-shot, and to send a boat to the merchant ship, to enter her with two or three men only, to examine her passports

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and certificate; and to these they are to give entire credit, without attempting to search or rummage the ship, or to stop or turn her out of her course, unless in time of war it should appear from her papers, that she was bound to a port of the enemy, and had contraband goods on board.

This, I say, Sir, is the general rule; but if this rule were to be strictly adhered to upon all occasions, and never transgressed or encroached on, notwithstanding the most violent suspicion of fraud, it would be impossible for the Spaniards to prevent an illicit trade with their plantations or dominions in America; and it would be equally impossible for us to prevent the exportation of our wool. Nay, it would often be impossible to discover a pirate-ship at sea; and much less to discover, that a ship met with at sea belonged to an enemy, or was carrying contraband goods to an enemy. Therefore, in all such cases, something must be left to the discretion of commanders of men of war, privateers, or guard-ships, who, if they transgress this rule, transgress it at their peril; and if it should appear, that they transgressed it without any just cause of suspicion, and without discovering any fraud, besides being obliged to make good the damage, they ought to be severely punished.

Thus, Sir, for regulating the visiting of ships in time of war, in order to discover whether they belong to an enemy, or are carrying any contraband goods to an enemy, we have many precedents both in treaties and practice; but for regulating the visiting of ships in time of peace, in order to discover whether they have been concerned in an illicit trade, we have no precedent either in treaties or practice; and as there is no precedent, any new regulation, as to this point, will certainly require great caution, and the most mature deliberation on both sides: on the side of Spain, lest they should render the preventing of an illicit trade impracticable; and on our side, lest we should admit of any thing that might in time prove an encroachment upon, or interruption, to the freedom of our trade and navigation in the seas of America; from whence every gentleman must see a good reason for not being surprised at this dispute's not being as yet settled.

I think, Sir, the only objection now remaining, is that relating to the South Sea Company's annual ship, which the noble lord says we ought to have had granted for 10 or 11 years, instead of four; and that our not insisting upon this was a concession, that the interruptions we had met with were just, and such as we deserved. Sir, if any such concession was ever made, it was not by the late treaty of peace, but by the treaty of Madrid in 1721, and the treaty of Seville in 1729; for as no prolongation of the assiento contract was then stipulated, in order to compensate the interruption we had met with, the point was certainly understood to be given up, and could not be revived or reassumed in any future negociation; so that all we could desire in the late treaty, was the revival of that contract for four years, which we accordingly obtained; consequently, it must be allowed, that notwithstanding the misfortunes of the late war, we obtained more from Spain by the late treaty, than we could obtain either by the treaty in 1721, or that in 1729; and if our not obtaining a prolongation of that contract by either of those treaties, was a concession, that we had been at both those times in the wrong to Spain, their granting that prolongation now, is a concession that the late war was occasioned by their being in the wrong to us, which is a sort of earnest of their future good behaviour towards us.

I hope I have now shewn, Sir, that we have no just complaints either of omissions or commissions in negociating and concluding the late treaty of peace; and that we have not as yet a just cause to complain of any unnecessary delay in the execution of it; therefore, there can be no occasion for the Address proposed; and as we ought never to intermeddle in such affairs without a very apparent necessity, I hope the motion will be either withdrawn or disagreed to.

Lord *Strange*:

Sir; the hon. gentleman who spoke last, would gladly, I find, turn the debate upon the question, whether it was wise or prudent at this juncture to make such a motion; but this is not the question now before us; the motion has been made and seconded; the House is consequently in possession of it; and it must appear in our votes, unless the noble lord, and those who seconded him, will please to withdraw their motion, which, I believe, they will not agree to; and therefore the question now before us is, whether it would be wise or prudent in us to put a negative upon such a motion?

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This, Sir, is the only question now before us, and upon this question I must be of opinion, that nothing could be more derogatory to the honour of the nation, and to the dignity of this House, than to put a negative upon such a motion. When I say this, Sir, every gentleman must suppose that, in my opinion, nothing could be more unwise or imprudent; for no gentleman will give himself either the time or the trouble to consider consequences, when his honour is immediately at stake. If a gentleman, just recovered from a violent fever, should receive a blow, would he delay resenting it till he had recovered his strength? Would not he upon such an occasion reflect, has he not the highest authority for concluding, that the battle is not to the strong, nor the race to the swift? Would he not in such a case resolve to place his confidence in him who gives the victory, and to follow the affront with quick and immediate resentment? if he did not, he would forfeit his character as a gentleman; and, I am sure, it can never be wise or prudent for any gentleman to incur such a forfeiture.

But, Sir, if it be imprudent in a gentleman to forfeit his character, it is still more so in a nation. A weak state may be affronted or attacked by a potent enemy; an enemy that in all human appearance it could not long resist; but if it shews a proper resentment, if it manfully fights every inch of ground, some of its neighbours will thereby be encouraged to come to its assistance, and Providence, or, if you please, Fortune, according to the old proverb, will be its friend. We have a strong instance of this in the case of the Romans during the second Punic war: we have had a late instance in the case of the queen of Hungary: when that undaunted princess found herself obliged to retire from Vienna, and throw herself into the arms of her brave subjects, the Hungarians: when she made that memorable speech to them, in these words, "Abandoned by my friends, persecuted by my enemies, attacked by my nearest relations, the only resource I have left, is to stay in this kingdom, and commit my person, my children, my sceptre and crown, to the care of my faithful subjects." At this time, I say, Sir, could any one have thought that she would have been able to have stood against the multitude of her enemies? yet she resolved never to submit to the shameful terms designed to be imposed on her by her enemies; and Providence, it seems, approved of her resolution; for, contrary to all human appearance, a very few months not only restored her to her own capital, but put her in possession of the capital of one of her enemies; and the consequence now at last is, that her family is again in possession of the imperial diadem, without any very great loss of power or dominion. Whereas, had she acted according to the hon. gentleman's rules of prudence, another family would have been established upon the imperial throne, and in the possession of so great a part of her dominions, that her family must have always depended upon them for a protection against the Turks.

This, Sir, is a recent proof, that nothing ought to be so dear to a nation as its character, and that it never ought, in any circumstances, or at any conjuncture, to submit to what may give the world a mean opinion of its courage, resolution, or power. Let us then consider what will be the consequence of our putting a negative upon this motion. Do not all the world know, do not the French themselves confess, that we have a right to see the port of Dunkirk absolutely demolished? Does not every one know, that no one step has been taken, ever since the late peace, to demolish even the works which the French had erected there during the late war? If after this we should reject a motion of this kind, will not all our neighbours be thereby induced to think, that we have not the courage to vindicate our rights? Will not the French look upon it as a surrender of the right, or at least as a declaration, that the British parliament will give itself no trouble, whether the port at Dunkirk be demolished or no? And after such a declaration from parliament, can we expect that the French court will give ear to any instances his majesty may be pleased to make for having it demolished? No, Sir, we can expect no compliance with any such demand; for the French court know perfectly well, that his majesty will never go the length of declaring war upon the refusal of a demand, which his parliament seems to think of no moment, whether it be complied with or no; therefore the question now before us is, in effect, whether you think that the fortifications lately erected for the defence of the port of Dunkirk ought to be demolished or no? And I should be sorry to see a majority of this House upon the negative side of such a question.

The hon. gentleman, Sir, was pleased to say, that it was a matter of very little moment, whether these works be demolished



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a few months sooner or later; because in time of peace they can be of no prejudice to us, nor of any advantage to the French. But I must ask him, whether he thinks, that the French would demolish them after the breaking out of a new war? For if they would not, it must be to us of the greatest moment to have them demolished as soon as possible; because no one can tell how soon a new war may break out between the two nations; and I hope, he will allow, that in time of war, these works would be of great prejudice to us, and of great advantage to the French; especially as they would take that opportunity to add new works, and perhaps to make the port and harbour of Dunkirk as complete, and as defensible as it was at the time of the treaty of Utrecht.

But our agreeing to this motion would, he says, manifest a jealousy, a suspicion of the faith of France; and that we are already endeavouring to pick holes in the late treaty of peace. Sir, can our desiring to have the terms of a treaty complied with, be supposed to be a picking of holes in the treaty? Is it not, on the contrary, a proof of our being resolved to abide by that treaty? And if we shew that we have a jealousy or suspicion of the faith of the French, it is what they deserve, by their delaying to do what might have been done, and what ought to have been done, about twelve-months ago. Could a man say, that I had a suspicion of his honesty, should I demand and insist upon payment of a bill, that had become due, and should have been paid fifteen or sixteen months before? Could he blame me, should I even expressly tell him, that as I knew his ability, I could not but suspect his honesty?

Surely, Sir, we are not, by the management of that gentleman and his former and present friends, brought to such a wretched condition, that we dare not so much as ask for what is due to us. If we are, I shall grant it is a good argument against our agreeing to this motion; but would it be consistent with the dignity of this House, to admit of such an argument, without making the least enquiry into the means by which our country had been brought into such a wretched condition? Could such an enquiry be attended with any bad consequences to the nation? Could it be of dangerous consequence to any man in the nation, unless there be some amongst us that have been guilty of something worse than misconduct? Therefore, Sir, if by putting a negative upon this motion, we expose our country to contempt, I hope, we shall so far take care of our own honour, and of the character of this assembly, as to follow that negative with a motion for an enquiry into the present state of the nation, and the conduct and conclusion of the late war.

Mr. *William Pitt:*

Sir; I must confess I do not comprehend the distinction which the noble lord who spoke last endeavoured to establish, between the wisdom of making, and that of rejecting a motion; for if it was unwise to make it, surely there can be no imprudence in rejecting it; and according to my view of things, I must not only think that it is unwise and dangerous, but also that it seems to be wicked. I say, Sir, that it seems to be wicked, because it seems to have been made with a design to inflame the people against his majesty's government, or to involve the nation in a new war with France, when neither our own circumstances, nor the present circumstances of Europe, can admit of our engaging in such a war with any hopes of success. I hope, the noble lord had no such design: I hope, his motion proceeded entirely from his not considering the present circumstances of our affairs, either foreign or domestic; for if he viewed our affairs in the same light I do, and which I think the only true light they can be viewed in, he could not have any good design in making such a motion at such a time.

I shall grant, Sir, that a nation, as well as a private man, when attacked, must make the best defence it can; but surely no nation ought to provoke a war, when it is conscious of its being the weaker party; nor would any man in his senses provoke another to a boxing-match, when he is but just recovered from a violent fever, and the other in full strength and vigour; and it must be allowed, that a nation, when affronted, may suspend its resentment, with much less danger to its character, than a private man can do. Supposing then, it were true, that the French had refused or unreasonably delayed to demolish the works lately erected for defending the port of Dunkirk, this can be no reason for our declaring war, or taking any step that may tend towards a declaration of war against them on that account, unless we had a chance at least for obtaining by war, what we found we could not obtain by negociation. If we did declare war without any such chance, we should forfeit all pre-

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tence to the character of being a wise and cautious people, which is a character at least as necessary to be preserved, as that of being a brave and warlike people.

I believe, every gentleman must now see, Sir, that neither the case of the Romans in the second Punic war, nor the case of the queen of Hungary, can be any way applicable to the case now under consideration. They were both attacked, notwithstanding their having taken every method that prudence or caution could suggest to prevent it. Is this now our case? Are we attacked, or are we in danger of being attacked? I believe, I may venture to prophesy, that the French will not attack us, or declare war against us, unless we provoke them to it by some such step as this now proposed: nay, I believe, they will not attack us, unless we attack them first, or give them reason to believe, that we are preparing to begin the attack; and should this House agree to the motion now made to us, I am persuaded, they would look upon it as a prelude to an attack, in which case we could not expect, that they would demolish any works they thought necessary for the defence of any part of their dominions. Consequently, I cannot think that any gentleman will agree to this motion, but such as are of opinion, that it ought to be followed by a declaration of war; and before any gentleman embraces such an opinion, surely he ought to consider, whether in our present loaded condition, we could hope for carrying on a war with success against the whole House of Bourbon, and such of the other powers of Europe, as they might prevail on to join with them against us; for in the present circumstances of Europe, there is not one power upon the continent that would be able to assist us; and were any of them able, if we should by our imprudence precipitate a war, at an unlucky conjuncture, we could not expect that any of them would incline to assist us.

On the other hand, Sir, a very few years will, I hope, free us from a great part of that load of debt we groan under at present, and will establish our public credit upon a basis which it will be hardly possible to shake; to which I shall add, that many accidents may happen, that will contribute towards strengthening and uniting our friends upon the continent, or towards weakening and disuniting our enemies; whereas no contrary accident can, with any reason, be apprehended; and in such circumstances would it not be the height of imprudence in us, to insist so peremptorily upon the most just demand as to bring on an immediate war? Gentlemen may be as merry as they please upon the word negociate. I have formerly made as free with it as any gentleman in this House; but the circumstances of affairs are now very much altered, and in the circumstances I have fairly and truly set before your eyes, I shall always think it much better to negociate than to conclude, or fight. By negociation we keep our just claims alive; but by fighting or concluding, we may be obliged not only to give them up, but to yield to some of the unjust claims of our adversaries.

But, Sir, besides the many arguments that may be drawn from the rules of common discretion, a very strong argument may be drawn against our agreeing to this motion, from the nature of our constitution. The power of making peace and war will certainly be allowed to be a prerogative inherent in the crown; and as a necessary consequence, his majesty must necessarily have the sole power of negociating and treating with foreign states. This prerogative, I shall admit, ought, like every other, to be made use of for the good of the people, and the honour of the crown; and when it is otherwise made use of, or neglected to be made use of, the parliament may interpose with its advice, or, in order to punish those that were the authors of such use or neglect; but unless it can be alleged, that this prerogative has been made a bad use of, or that it has been to the great hurt of the people neglected, the parliament ought never to interpose in any affairs relating to peace or war, negociating or treating. Can any thing of this kind be alledged with regard to the works lately erected for the defence of the harbour of Dunkirk? In the late treaty of peace, his majesty has taken all possible care to have them demolished, by an express article for that purpose; and though that article is not as yet complied with, yet the time elapsed since the conclusion of that treaty is not so long, as to lay a foundation for accusing his majesty or his ministers with any neglect upon that head, much less with a neglect by which the people have suffered. This motion then is certainly premature, and consequently our agreeing to it must, from the nature of our constitution, be deemed an encroachment upon the prerogatives of the crown.

The late erected works at Dunkirk are

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not, I believe, Sir, so extraordinary, but that they might have been demolished before this time, had the French set about it after the ratifications of the definitive treaty were exchanged; but let us consider, that they were to be demolished at the expence of the French; and the French finances, as well as our own, having been very much exhausted during the late war, we cannot wonder at their not having been as yet able to spare such a sum as was necessary for defraying the expence of demolishing those works. At least we may suppose, that they have made use of this as a pretence for not entering upon the business; and for the little time that has yet passed since the ratifications of the treaty were exchanged, we could not refuse to admit this as an excuse, without incurring the censure even of our friends upon the continent, especially as the demolition could not be undertaken but during the warm and calm weather of the summer, and but one summer has passed since that time.

The delay in the execution of that article of the treaty cannot therefore, Sir, be supposed to proceed from our being in such a wretched condition, as not to dare so much as ask for what we have a right to; for though our condition is not at present very good, yet it is not yet quite so wretched, nor will it ever be so, if we take care not to involve ourselves in an unequal war, and at an unlucky conjuncture; but if we were now in such a wretched condition, I should think it no reason for setting up a parliamentary enquiry into the means by which we were brought into that condition; for the means are publicly known, and known to be such as no man in this kingdom can be blamed for. If there be any secret in the late conduct of the affairs of Europe, it is in the question, how it was possible for our ministers to obtain so good a peace as they did; for I must confess, that when the French laid siege to Maestricht in the beginning of 1748, I had such a gloomy prospect of affairs, that I thought it next to impossible to preserve our friends the Dutch from the imminent ruin they were then threatened with, or to maintain the present emperor upon the imperial throne; and if the Dutch had been ruined, and the emperor dispossessed, this nation would have been so far from being in a condition to insist upon what it had a right to demand, that we must have yielded to every demand our enemies might have been pleased to make upon us. This, Sir, is my opinion of the conduct and conclusion of the late war; and let those who have a contrary opinion be the movers and supporters of what the noble lord who spoke last was pleased to propose, as well as of the proposition now under our consideration.

Mr. *Henry Bathurst*:

Sir; the hon. gentleman was pleased to say, he could not see how it would be imprudent to reject a motion that had been imprudently made; to which I must apply the old observation, that there are none so blind as those that will not see; for it is certain, that we have now nothing to do with the question, whether the motion was prudently made or no. We are only to consider, whether it be now most prudent to agree to it, or to put a negative upon it. For my part, I must think, that if there was any imprudence in making this motion, it consisted in the danger of having a negative put upon it; and if this was the only imprudence, the hon. gentleman cannot but see, that it would be extremely imprudent in us to reject the motion; and I must submit to gentlemen, which seems to be most wicked, to press for the performance of an article in a treaty, that is of the utmost consequence to this nation, or to furnish our enemies with a pretence for not performing it at all; for if the French could not last summer spare the expence of demolishing the port of Dunkirk, it was because they applied all the money they could possibly spare towards repairing and augmenting their marine; consequently, they will have this pretence, and will certainly make use of it every summer, until they have got their marine in such a condition as to be superior to us at sea; and when they have done this, can we expect that they will ever demolish the port of Dunkirk, or shew the least regard to any instances we can make on that head?

The hon. gentleman was pleased to observe that the demolition of that port can be undertaken only in summer, and that but one summer has passed since the conclusion of the treaty of peace. Sir, I must insist upon it, that the demolition may be carried on in winter as well as summer; and if it were otherwise, I will say, that to let one summer pass over without so much as one stone or one pile's being removed, is a very great neglect in us, and a high contempt put upon us by the French; because we must have that Article perform-

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ed, before we can insist upon the performance of any other; for it would be the height of imprudence in us, to insist upon the performance of any other, so peremptorily as to endanger a rupture, before we have seen the articles of former treaties, as well as the last relating to Dunkirk, punctually complied with; and I believe the French will perform no article, which they think worth their while to contest, upon any other consideration but that of preventing an immediate rupture.

As this, Sir, is my firm opinion, I should be under the greatest anxiety, had I the same opinion of the superior power of France, that has been, I am sure, unwisely, I hope, untruly, expressed by the two hon. gentlemen who have spoke against this motion. To talk of our being the weaker party, and of our being unable to support a war against the whole House of Bourbon, in such a numerous assembly, and when there are so many strangers in our galleries, is certainly much more imprudent than it was to make this motion. As this is post-night for France, I do not question but the hon. gentlemen will have the honour of having what they have said upon this subject, transmitted in several letters to both the courts of Versailles and Madrid; and I am fully convinced, that while we have at the helm of our affairs gentlemen, who have such a mean opinion of the power and courage of their country, we shall never be able to obtain any proper concessions from either of those courts.

But, Sir, if either of those courts should continue to delay doing us justice, I hope, his majesty will be able to find ministers who have a better opinion of his power, or at least, not so high an opinion of the power of his enemies, and indeed, I do not wonder that those gentlemen who thought us no match for Spain, and therefore tamely submitted for twenty years to all the insults and indignities put upon us by that nation, rather than venture a rupture, should now think us a very unequal match for the whole House of Bourbon. We know what sort of men are taught by experience; but even the lessons of experience, I find, are thrown away upon them, otherwise the late war must have convinced them, that we are at sea an overmatch for the whole House of Bourbon; and if we wisely and steadily pursue a true British scheme of politics, we shall always continue to be so; but if we pursue what seems to be our present scheme, if we be extremely frugal as to every article that relates to our marine, and extravagantly lavish as to every other article of public expence, I make no doubt, but that France alone will in a few years become an overmatch for us at sea; and if ever that should happen, Britain, instead of Flanders, will become the seat of war, bloodshed and desolation; for even in that case, I hope, the people of this kingdom would not act such a cowardly part, as tamely to give up either their liberty or independency.

But surely, Sir, if we have any apprehension, or if we think there is a possibility, that the House of Bourbon may in a few years become an overmatch for us at sea, it is a reason for our insisting peremptorily upon an immediate execution of every Article of the late Treaty, and upon their doing us justice with respect to every other point in dispute between us; for if we should allow them to put us off with sham pretences, now when it is certain that they are not a match for us at sea, can we expect better treatment, after they find themselves in a condition to overpower us upon the ocean as well as at land? Therefore if no justice can be expected but by a new war, the sooner we engage in it, the better; consequently, supposing this motion was made with a design to procure us justice or provoke a war, it was so far from being a wicked, that it was a wise and a right motion: for if it should be agreed to, and a new war should be the consequence, it could not be now said that the parliament had precipitated us into a war, no more than it can be said that the parliament precipitated us into the war with Spain, by what it did in 1738 and 1739. It was not the proceedings in parliament, Sir, that precipitated us into that war; but the truckling submissions of our ministers for so many years before, and the trash of treaties they had concluded, were such, that a war was become absolutely necessary before the parliament interposed; and it was become necessary for the parliament to interpose, because it was apparent, that our ministers were resolved to sacrifice both our trade and navigation in the American seas, rather than go to war. The parliament therefore did at that time nothing but what was their duty; but I shall readily grant, that they did not the whole of their duty; for they should not have left the conduct of the war to those who had shewn themselves so very fearful of entering into it:

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and if ever the like should happen again, I hope, the parliament will take care not to be guilty of the same failure in their duty; for we know from experience, that a minister generally behaves like a stepmother with respect to those projects which are none of his own; and this might perhaps appear to have been lately the case, if a strict and impartial enquiry were to be made into the conduct of the late war, either with Spain, or upon the continent of Europe.

It is really to me diverting, Sir, to hear the hon. gentleman throwing out his defiances, and declaring his readiness to concur in a motion for an enquiry into the conduct and conclusion of the late war, and yet at the same time opposing every motion that may tend to giving gentlemen the proper lights into any part of that affair; for surely no gentleman who inclines to have a strict and impartial enquiry made, either into the conduct of the war, or the conclusion of the peace, will move for our going into such an enquiry, till we have all the proper and necessary lights upon our table. As every motion for this purpose has had a negative put upon it, it is very easy to say, that the late treaty of peace was such a one as we were forced to accept of, by the disappointments and defeats we had met with in the prosecution of the war, and by the danger our allies the Dutch were brought into; but if we had the proper lights before us, I believe, it would be very easy to shew, that all the disappointments and defeats we met with, as well as the danger to which the Dutch were exposed, were all owing to our own misconduct; and that our conduct was in some cases so glaringly ridiculous, that it is hardly possible not to suspect it of having been designed. But as we can at present argue upon this subject only from printed newspapers and pamphlets, I shall not trouble the House with any such arguments; though I must make some observations upon the circumstances of affairs at the time the treaty was concluded, in order to shew that we were not under an immediate necessity to accept of such dishonourable terms of peace.

To begin, Sir, with our own affairs here at home: I shall allow that our public credit had met with a very great shock, but how was that shock occasioned? Sir, it is well known, that it was occasioned by some people's endeavouring to make a job for themselves and their friends, of the subscription for annuities voted by parliament. When the vote was passed, it was expected that the subscription would, presently after the first payment's being made, bear an advanced price, and consequently would be a lucrative job to every man that could raise money for making the first payment, and obtain the favour of being allowed to be a subscriber. For this reason the courtiers resolved to keep it to themselves, and no man was allowed to subscribe, unless he was a courtier, or would make the whole first payment, and allow some courtier to go shares with him in the subscription. This disgusted all the monied men in the kingdom, as well as those who were the agents of the monied men abroad; and they resolved to let our ministers see, that money could not be had, without keeping up a good correspondence with those that had it. By this means the subscription soon fell to a great discount, and this affected all our other funds; because many were obliged to sell out of the old funds, to make good their payments upon this new subscription, and the real monied men resolved not to be purchasers. I say, the real monied men, by which I mean those who have a sum of money by them unemployed; for if a man had a million settled in the public funds, and no ready money besides at command, he could not be deemed a monied man, with regard to any new subscription.

It was this, Sir, that gave the shock to our public credit; but if the courtiers had been made to suffer for their avarice, and some other proper methods taken to recover the confidence and the good will of the monied men both abroad and at home, and to invite them to become subscribers, our public credit might soon have been restored, so as to enable us to prosecute the war with vigour both by sea and land: and the Dutch were not in such imminent danger as some gentlemen would make us believe; for, besides the strong city of Maestricht, the French must have made themselves masters of several other well fortified towns, before they could have entered any of the Dutch provinces; and before they could have done this, the Russians would have joined our army, which would have enabled the duke to give them battle, with a probable view of success, especially as the French army would have been not only fatigued by the sieges they had been engaged in, but very much diminished, as they must have left a strong garrison in every town they took,

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in order to keep the communication open with their own country.

When I consider the circumstances of the Dutch in 1672, I am surprised, Sir, to hear any gentleman pretend, that in the beginning of 1748, they were in any danger of immediate ruin. In 1672, the French were in possession of three of their provinces, and almost at the gates of the city of Amsterdam; and besides this, they were engaged in a most fierce and dangerous sea war with this nation; yet they found means to extricate themselves out of all these difficulties, and might have made France heartily repent the invasion she had made upon them, if they had not been afraid that by conquering their enemies, they might at last conquer themselves, which induced them to make a separate peace with France, very much against the will of the prince of Orange, who knew that it proceeded not from their fear of France, but from their fear of too great an increase of his power.

It could not, therefore, be the immediate danger to which the Dutch were exposed, that made us agree to that treaty, nor could the French have compelled them to enter into any alliance against us: as little could it be the danger to which the king of Sardinia was exposed, as experience had shewn how difficult and expensive it was for the French to carry on a war in Italy, whilst we were masters of the Mediterranean; and no one can pretend to say, that either the queen of Hungary or we were in danger of an attack upon any part of our dominions. How then, Sir, came this peace to be so necessary at that instant of time? For my own part, I can see no cause for this necessity, unless it was the danger many of our courtiers were in of being ruined, by the share they had in our new subscription, if the preliminaries had not been at that time agreed on; and consequently, I must reckon, that Cape Breton was sacrificed, and hostages given for the security of our making that sacrifice, to the preservation of a set of courtiers here at home; for it was not given as a consideration for the restitution of Flanders; because in consideration of that restitution, the queen of Hungary gave up Parma, Placentia, and Guastalla; and Modena was surely a sufficient compensation for Savoy and the little county of Nice.

Having now shewn, Sir, the necessity, and the only real necessity we were under for making peace at that instant of time, let me examine what sort of necessity the French were under. For this purpose I must desire gentlemen to recollect what was then well known all over Europe, that a famine had spread itself all over the kingdom of France, and that most of their manufacturers both in silk, woollen, and linen, were thrown idle, for want of the necessary materials of which those manufactures are composed; and what made those misfortunes the heavier was, that during the war they could not easily find a remedy; because in the preceding year, by the diligence of some of our sea commanders, their marine were almost totally destroyed, so that they had no convoy for their merchant ships, by which means they were in all parts of the world exposed to our privateers as well as men of war. Then as to their colonies in America, it is well known, that if the war had lasted another year, and we had taken care to prevent their getting any considerable quantity of provisions; like the people of Egypt to Pharaoh, they must have sold themselves to us for bread.

After this, which every one knows to be a true description, I may appeal, Sir, to gentlemen, whether France or this nation stood most in need of a peace; and as the gentlemen who oppose this motion have in a manner confessed, that their late treaty of peace can be justified only by the necessity we were under, if France was in a greater and more immediate necessity than we, they stand self-condemned without any enquiry. But they are not, it seems, satisfied with having unnecessarily accepted of a very bad treaty of peace; for the few advantages that were thereby stipulated for us, are, it seems, to be wholly, or in a great measure, given up; particularly the article relating to Dunkirk is, I find, to be given up even by our ministers, as to every thing that was done towards restoring that port before the war; for they have told us, that it is not proper for us at present, to insist upon having the harbour made entirely useless even for small trading vessels. For God's sake, Sir, what did we put such an article into the late treaty for? The article says, that Dunkirk is to remain upon the footing of ancient treaties; and the hon. gentleman told us, that by ancient treaties are meant all treaties preceding that at Aix-la-Chapelle. If so, then both the treaty of Utrecht, and the treaty of 1717, for demolishing of the port of Mardyke, are included; and from these treaties it is

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evident, that the entire destruction of the port of Dunkirk was intended and agreed to by France; consequently, this was again stipulated and agreed to by the treaty at Aix-la-Chapelle. But now, it seems, we must not ask what they have so often and so lately promised. Dunkirk is to remain a port for trading vessels, and that without any limitation of burden; so that the French may make it fit for receiving their East India ships; and then, as soon as a war happens, we may be assured, it will be made a station for their men of war.

Thus it is, Sir, and thus it has been before this time; the nation is flattered and amused with a fine article in a treaty; and that article is soon after given up by our ministers; for the French, I have been told, were encouraged to put Dunkirk in the condition it was in at the breaking out of the late war, by a letter from a certain British minister, who therein said, that we would be content with less than the total demolition of that port; and from what afterwards happened, it was plain, that he had good authority for saying so: but nothing can afford a stronger argument for agreeing to the motion now before us, than such a conduct in our ministers; because, it will signify nothing for his majesty to stipulate advantages to his people by treaty, if his ministers take upon them to give them up, either expressly, or by connivance; and the only way by which his majesty can discover whether they do so or no, is by the parliament making now and then an enquiry into their conduct as to foreign affairs. Therefore, I shall always be for any motion that has such a tendency; and however much our ministers may be afraid of France, I hope, this House will never shew so much fear of it, as to be deficient in our duty both to our sovereign and our country.

Mr. *Horatio Walpole*, sen.:

Sir; as I have for many years had the honour of a seat in this House, notwithstanding the impropriety of this motion, notwithstanding the fatal consequences it would be attended with if agreed to, I was no way surprised at hearing it made. It has always been a rule with those, who place themselves in opposition to an administration till they can obtain a share in it, to contrive and make popular motions, which they know the ministers cannot agree to: because, by so doing, they serve a double purpose: they acquire to themselves the name and character of patriots, and they throw a popular odium upon the ministers for the time being; which, they think, may at last render it necessary for his majesty to employ them, in order to make the popularity they have acquired contribute to the support of his government.

This, Sir, was an artifice that in former times had often the effect intended: but such gentlemen should consider, that of late years it has been found, that upon their accession to the administration, they always left their popularity behind them, and became themselves the greatest sharers in that odium which they had before brought upon the ministers; therefore, as his majesty cannot now expect any advantage by employing such men, an improper affectation of popularity will not probably in time to come be a road to preferment. For this reason, I hope, gentlemen will for the future be cautious of what motions they make in this House, and resolve not to make any but such as they themselves would agree to, were they then the servants of the crown. Now I must appeal to those wery gentlemen who have appeared, or may appear, as advocates for this motion, whether they would think themselves at liberty to agree to it, had they now the honour to be employed by his majesty in the administration of his government?

But, Sir, I must observe, that in many cases it may be right to make a motion, and yet it would be very wrong in this House to agree to it. The motion now before us I take to be one of this sort; and therefore, I am persuaded, the noble lord who made it, did not intend it should be agreed to. The motion may be of service to our ministers in their negociations with those of France in relation to this affair of Dunkirk, because it furnishes them with a reason for being pressing, without obliging them to be peremptory. They may, and I believe will, take occasion from this motion to press the speedy execution of that article of the late treaty; and this they may do without running the risk of involving the nation in a war at an unseasonable juncture; but should the motion be agreed to, and followed by such a resolution of this House as it probably would be, our ministers would then be forced to be peremptory in their demand, and the consequence of this must be an immediate compliance on the part of France, or an immediate declaration of war on the part of



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England; and for this I neither think the conjuncture proper, nor the contest by itself alone of such importance.

When I say, Sir, that I do not think the contest by itself alone of such importance as to be the cause of a war between the two nations, I mean, the leaving Dunkirk in its present condition: for while it remains in no better condition than it is at present, it can do us no great prejudice in time of war, and will be an advantage to us in time of peace, because it is the most convenient port for Flanders, where many of our manufactures are consumed. I have said, Sir, that the port of Dunkirk can never, in its present situation, be of any great prejudice to us even in time of war, and I say so, because it cannot be any certain retreat either for their men of war or privateers, when pursued by our ships; even in its most perfect state, no ship of any burden could get into the harbour at low-water; but then they had formerly two piers which stretched a long way into the sea, and at the ends of those piers, as well as in other places, they had forts well provided with cannon, under which any of their ships might take shelter and lie in safety, till the tide made for letting them into the harbour. Those forts are now no more, and therefore during last war their privateers did us little or no damage; for they were generally picked up by our cruisers, as they could not get into the harbour, or any other place of safety but at high-water.

This, Sir, is neither known nor understood by the generality without doors, therefore the demolition of the port of Dunkirk still continues to be a favourite point among the people, and is consequently a fit topic for those to harangue upon, who aim at raising a popular clamour against an administration; but ministers, if they were wise and resolute, will consider things as they really are, and not in the false lights in which they appear to the vulgar and ignorant. Therefore they will not involve the nation in a dangerous war upon any trivial dispute, however important that dispute may appear in the eyes of the people; and as they must know both the strength of this nation, and the strength of other nations, better than those who have not an equal opportunity to make any just remarks upon either, I shall always be for adhering strictly to that part of our constitution, which leaves every thing relating to peace or war to the determination of our sovereign, and those he may consult with.

Gentlemen may ridicule what they have called our trash of treaties as much as they please, but they must admit, Sir, that by that trash of treaties, the peace of this nation was preserved for a great number of years; and some gentlemen should consider, that the whole of that trash flowed from the treaty of Utrecht, and that if there was any thing bad in any of them, it ought, in justice, to be imputed to that infamous treaty, which left France in possession of so much power, that she continued to be, as she was before, an overmatch for any of her neighbours; so that there never was, since that time, an opportunity to treat with her upon an equal footing, without forming a new confederacy, which our breach of faith, by our preliminaries to the treaty of Utrecht, made it impossible for us to accomplish; and every gentleman, who has the least knowledge of the present circumstances of Europe, must admit, that no such confederacy can now be formed.

For this reason, Sir, we should avoid, as much as possible, every thing that may lead towards an immediate rupture; and our agreeing to this motion would so apparently have such a tendency, that I am persuaded, it would raise a general alarm in the city. They would all conclude, that a war must be the immediate consequence. Upon this our public funds would all sink in their price; and in such circumstances, could we hope to carry that scheme into execution, which every gentleman seems to be so fond of? I mean, that of reducing the rate of interest payable to the public creditors, which, I hope, will be carried into execution, notwithstanding the opposition it has met with; and as the nation will thereby receive a benefit far superior to any prejudice it can ever sustain from the port of Dunkirk, were I otherwise inclined to agree to this motion, I should be against agreeing to it, at least until we have carried this scheme into execution.

Mr. *Robert Nugent*:

Sir; I have heard many severe things said against what the hon. gentleman was pleased to call the infamous treaty of Utrecht, but I never heard so severe a reflection upon that treaty, as what he has now made: to tell us, that all the treaties we have since made flowed from that treaty, is, in my opinion, the keenest satire that ever was, or ever can be made upon it. As I was no way con-



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cerned in making or approving of that treaty, and as I think it signifies nothing to the present question, whether it was an infamous or an honourable treaty, I shall not enter into the vindication of it; but I must observe, that if there was any breach of faith in our preliminaries to that treaty, the precedent was exactly followed in our late treaty of Aix-la-Chapelle: for every one knows, that none of our allies were consulted in the conclusion of the preliminaries to that treaty, except the Dutch, who, of all others, deserved the least share of our confidence; for from the beginning to the end of the war, they never acted cordially with us in any one step, unless it was in that of concluding the famous treaty of Aix-la-Chapelle.

Now, Sir, as to what the hon. gentleman was pleased to say about the maxim of gentlemen who oppose the administration, I shall observe, that as the secret motives of a man's actions are discoverable by no human capacity, every man is apt to judge of the motives of other men from what he knows to have been his own; and therefore I do not doubt the hon. gentleman's really believing, that no man ever opposed an administration, but with a view to have a share in it as soon as he could: but the hon. gentleman was mistaken when he talked of its having been lately found, that those who deserted a well-grounded and popular opposition, left their popularity behind them, and became the most odious of an odious administration; for this has been so far from being lately found, that it is coeval with our constitution, and from our history we may learn, that no king was ever happy who encouraged any such desertion; for whatever mean opinion the hon. gentleman, and such as he, may have of the vulgar and ignorant without doors, I can assure him, that they do not form their judgment of an administration from the men that have a share in it, but from the measures that are pursued: therefore, no man can ever by opposition become popular, unless the measures pursued by the administration are unpopular; and if the king resolves to avail himself of such a man's popularity, he must not only adopt the service of the man, but relinquish the measures which he has opposed, and consent to the punishment of those who led him into such measures.

But, Sir, if the hon. gentleman's maxim were to be established, if no member of this House were to make any motion, but such a one as he himself would approve of, were he in the place of the then minister, it would make a bad minister very easy, and a parliament very useless. Can we suppose, that a criminal will ever approve of being indicted? Can we suppose, that a bad minister will ever join in, or agree to a motion for an enquiry into any part of his conduct? With respect to the present motion, I will not say, that I would agree to it, if I were exactly in the situation of that minister whose department this affair belongs to; but I will say, that if I had been in his place, there should either have been no occasion for this motion, or I should have most heartily joined in it: either the port of Dunkirk should have been by this time demolished, or I should have been for having this motion agreed to, in order to convince the world, that I had done every thing that was incumbent upon me, for having that article of the late treaty punctually performed.

In this respect, therefore, I may say, Sir, that the hon. gentleman's maxim has been adhered to; but I must observe, that in order to mislead gentlemen, both the cause and the intention of this motion has been misrepresented. As to the cause, we all know that the harbour of Dunkirk now remains in the very same situation it was when the last treaty of peace was concluded; but this of itself alone would have been no just cause for such a motion in parliament; because if our ministers had done all that was incumbent upon them, the parliament could have had nothing to do with the affair: but it is suspected, Sir, that our ministers have not in this affair done their duty, that they have not properly demanded a performance of this article of the late treaty; and from this suspicion it becomes not only the business, but the duty of parliament to enquire into the affair. This, Sir, is the true cause of this motion, and from this cause the real intention will appear. It is not to provoke an immediate war with France, or to force our ministers to demand peremptorily an immediate execution of this article of the late treaty; but it is to vindicate our ministers from this suspicion, or to censure them, if the suspicion should appear to be well-grounded. If they are guilty, we cannot suppose that they will join in any such motion: if they are innocent, they certainly will.

Now suppose, Sir, this motion agreed to, and suppose it should appear upon the

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issue of the enquiry, that our ministers have done their duty, that they have done all they could to have the article of the late treaty relating to Dunkirk duly executed, and that the non-execution of it proceeds entirely from the pretences and procrastinations of the court of France, the only consequence that can be supposed, for nothing is in that case to be apprehended, is an address from this House, to desire his majesty to continue or renew his instances at the court of France, for a performance of its engagements relating to the harbour of Dunkirk. Could this provoke a war, Sir, or would it lay his majesty under any necessity to declare war, in case France should not immediately comply with his demand? Did not this House present such an Address relating to the Spanish depredations, many years before his majesty found it necessary to issue reprisals upon that account? And if a motion, though rejected, may be of service to our ministers in their negociations, by furnishing them with a reason for pressing the just demands of their country, surely an address agreed to will be of greater service, because it furnishes them with a stronger reason; for the truth is, as has been already observed, if this motion be rejected, it will be of prejudice to our ministers in their negociations, because the ministers of France will naturally say, Why should you press this affair, which is very unpopular, and inconvenient for us to comply with, since you see that your own people do not insist upon it? And for this reason, Sir, I must conclude, that if our ministers do not concur in this motion, it can proceed from nothing but their being conscious of their having hitherto entirely neglected this important affair.

I say important, Sir, for though it should be granted, that Dunkirk cannot, in its present condition, do us great prejudice even in case of a new war, the affair is nevertheless important, because it is a breach of treaty in the French, consequently an insult upon this nation; and if we suffer this, no one can tell how far they may push their insults. But I see that some people are still actuated by the same spirit, by which they were actuated for so many years with respect to Spain. A single ship unjustly seized and confiscated by the Spaniards, was not an affair of such importance as to occasion a breach between the two nations. What was the consequence of this doctrine? Repeated insults, numberless seizures, till at last no British merchant ship could sail in the American seas with any safety; and the damage we sustained by these depredations amounted to such a sum, that Spain thought it worth while to risk a war rather than agree to grant reparation: whereas, had we issued reprisals upon the first delay of justice, we should probably have obtained full reparation without any rupture.

I really could not but smile, Sir, when I heard the hon. gentleman vaunt of the peace of this nation being preserved by his trash of treaties. How was it preserved? By our submitting tamely to all the indignities that could be put upon a nation. I could muster up a long roll of indignities put upon us, and real injuries done to us, both by France and Spain, every one of which deserved the most severe and immediate resentment; yet that gentleman and his friends did nothing but treat, and in every treaty gave up expressly or tacitly what we should have peremptorily insisted on having granted, or explained in the most explicit manner. Our ministers not only sacrificed the rights of this nation to their cowardice, but also the rights and possessions of our allies; for by their deserting the emperor Charles 6, when he was attacked by France and Spain, that prince was forced to yield Lorrain to France, and the rich kingdom of the Two Sicilies to Spain. Can this be called preserving peace by treaty? No, Sir, it is preserving peace as cowards generally do, by submitting tamely to indignities, and resenting no insult, nor revenging any injury.

So vastly afraid were our ministers, Sir, of doing any thing that might provoke France to a war, that they would not do any thing that might seem to intimate their having a jealousy of the designs of France, and we know who took upon him often to answer for the pacific disposition of the late cardinal prime minister of France, though every one knows, that his eminence never neglected any favourable opportunity, by peace or war, to aggrandize the House of Bourbon, and depress that of Austria. The fatal consequences of this pusillanimous spirit, by which our ministers were actuated, have since become manifest; yet from this debate we may see, that the same spirit still prevails. They tell us, that we must not agree to this motion, because it will shew a jealousy, a suspicion, of the faith of France. Good God! Sir, can a British minister ever



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be without a jealousy of the designs, and a suspicion of the faith of France? The hon. gent. talked of giving an alarm to the city, and of stocks falling: I have sufficiently shewn already, that our agreeing to this motion can give no alarm to any guiltless man in the kingdom. But I must tell that gentleman, that if our ministers do not shew a jealousy of France, the city will soon begin to be jealous of them. This will give a real alarm. This will make our stocks fall more than any accident that can happen to us: for no man, if he can help it, will trust his property in our public funds, after he begins to suspect that our ministers are in French leading-strings.

Sir *Peter Warren:*

Sir; I should willingly join in this motion, but that I think it a little premature; for parliament should never intermeddle in any case of this kind, till the administration has had sufficient time to make use of all the means in their power; and when we do intermeddle, I think, it would be inconsistent with our dignity to admit of any evasive answer or frivolous pretence for delay. I shall suppose, that the consequence of the enquiry now proposed, would, in this session, be only an Address to his majesty, to make, or reiterate, his demand for the due execution of the article in the late treaty relating to Dunkirk; but if that article should still remain unexecuted at the time of our next meeting, what would then be the consequence? I shall not pretend to foretel what it would be, but I am sure it ought to be, an Address to his majesty, to know what answer the court of France had made to his demand in relation to Dunkirk; and if it appeared to be evasive, or frivolous, or a flat denial of justice, we ought to address his majesty to take the most speedy and effectual measures for compelling France to perform her engagements. This, I say, ought, for the sake of preserving our dignity, to be the consequence; and before we make any step that may lead to this consequence, I think we should wait to see what the French have done, or may do, in relation to Madras, in relation to Tobago and the other neutral islands, and in relation to the boundaries between us in North America.

I say, Sir, we should wait a little for this purpose, because every one of these articles is, in my opinion, of greater consequence to this nation, than the demolition of the harbour of Dunkirk; and they are articles, in which no third nation has any immediate interest or concern: whereas the Dutch have an equal concern with us in demolishing the port of Dunkirk, and preventing its ever being made a fit harbour for receiving or protecting men of war or privateers; therefore we should not take any step relating to that article, but in concurrence with the States-General, or at least, we should desire their concurrence in every step we take; for I am far from saying, that we should give up the point, because the Dutch, through fear, indolence, or corruption, will not join with us in any proper measures for obtaining it: on the contrary, if force of arms should become necessary, I am apt to think, that we should be better without their concurrence or assistance, than with it, because it must always involve us in a land war, which it is the interest of this nation to avoid.

Sir, I think it so much our interest to avoid being concerned as principals in a land war, that I was glad to hear of the late peace being concluded, though I was then in a way not only of improving my private fortune, but of getting great riches. Gentlemen may talk of the distressed circumstances of France at that time; and I shall allow, that her people and her commerce were in very great distress; but on the other hand, I believe it will be allowed, that the circumstances of France were not then in such distress as they were at the end of the year 1711; and yet at that time France not only supported the war for another campaign, but upon the British troops being withdrawn from the confederate army, though not amounting to 20,000 men, she found means to give a turn to the fortune of war, and became every where victorious. I shall grant, that at the conclusion of the late peace, many of the manufacturers in France were thrown idle, and there was a famine among the people; but let us recollect what Lewis the 14th said in the like circumstances, towards the close of the war in queen Anne's time: when he was told, that his people were thrown idle, and starving for want of bread, he asked, "Are my magazines full? Are my troops sufficiently provided?" and being told they were: "Then," says he, "my regiments will be easily recruited; for the people will list, because they can get bread no where else." And if this was the case, when the armies of France were every where beaten, would it not have been much more so, when her armies were every where triumphant?

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It would not therefore have been so easy, Sir, to give a turn to the fortune of the late war, as some people imagine; and if we had given a turn to it, we should, I am afraid, have been ruined by success. These considerations, Sir, made me glad to hear of the late peace; for this nation would have been undone, before we could have recovered by force of arms, supposing them victorious, what we got restored by that treaty. But then, I hope, care will be taken to make the French perform what they promised by that treaty; for we are not what I was sorry to hear some gentlemen insinuate: we are not, Sir, the weaker party: we have nothing to do with the continent: we do not stand in need of assistance from any state upon the continent: let us confine ourselves to our own element, the ocean: there we may still ride triumphant, in defiance of the whole House of Bourbon. But, Sir, God knows, how long it may be so; for if the French go on improving their marine, and we neglecting ours, almost in every article that relates to it, we shall be beat out of the ocean, and then we must contend, not for any part of the continent of Europe, but for our own island.

Sir *John Hynde Cotton:*

Sir; I was glad to hear the hon. gentleman who spoke last, revive the drooping spirits of the House, by shewing us, that we are not the weaker party, that we are still in a condition to vindicate our rights and our honour, if we will but make use of our strength in a proper and natural way. No one knows better than that gentleman our true strength: no one knows better the true use of it: no one has contributed more towards rendering it formidable to our enemies; and if he can help it, I am sure it will never be allowed to go to decay; therefore it is plain, that his advice was never asked, much less followed, in forming our several articles of public expence for the ensuing year. With him I most sincerely agree, that we can never, if we follow right measures, stand in need of any assistance from the continent; and particularly, that the assistance of the Dutch will always be rather a prejudice, than an advantage to us; but I cannot agree with him in thinking the motion now before us any way premature, especially considering the prevailing suspicion, that our ministers have as yet made no application for having the harbour of Dunkirk demolished.

I shall grant, Sir, that if this motion were agreed to, and an Address to his majesty in pursuance thereof, it would be inconsistent with the dignity of parliament not to proceed further, in case that harbour should remain undemolished, and no satisfactory reason given for its remaining so. I shall grant, that, in such a case, we ought to address his majesty in the terms mentioned by the hon. gentleman; and for this very reason, I am for agreeing to the motion now proposed; because if that harbour is not demolished, or at least the works lately erected there, before next session, it will be high time for the parliament to hold such language, and such language from the parliament of Great Britain will still, I hope, have the desired effect, notwithstanding the pains taken by some gentlemen in this debate, to persuade the world, that this nation has been, by their conduct, reduced to a most contemptible, a most piteous condition.

Madras, Tobago, and the boundaries in America, are certainly, Sir, articles of great importance to this nation; but they are at a great distance, and some of them, especially the last, may admit of some altercation: Dunkirk is near at hand, and our right to have the harbour demolished, clear and evident; consequently, we ought first to insist on the performance of the article relating to Dunkirk. If I had a man's bond for 1,000*l.*, and besides, several claims which admitted of some dispute, and for the proof of which, I must have vouchers from beyond sea, should I delay asking payment of my bond, till I had got satisfaction as to all my other claims? On the contrary, should I not insist on the immediate payment of my bond; that, in case I should be obliged to go to law for my other claims, I might have something to go to law with? The parallel holds in every respect; would it not be better for us to go to war with Dunkirk demolished, than with Dunkirk in its present fortified condition? Is it not more easy for the French court to find plausible pretences for deferring the execution of the other articles, than for finding any sort of pretence for deferring that relating to Dunkirk? Therefore, by insisting peremptorily upon that point, we shall make trial of their sincerity; and if they readily perform that engagement, we shall have the less reason to be jealous of their faith in others.

The present motion is, therefore, Sir, in my opinion, far from being premature,

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even supposing we had no suspicion of the vigilance of our ministers. On the contrary, it is absolutely necessary we should agree to it, as a step which must be taken previous to what we ought to do next session. If we do not agree to it, I may venture to prophesy, that Dunkirk will remain in its present condition, at least for two years longer. Whereas, if we do agree to it, and to such an address, as, I hope, will be the consequence of it, I make no doubt of France performing this engagement before the end of next summer, notwithstanding that increase of power, which, by our conduct and treaties, the House of Bourbon has acquired since the treaty of Utrecht.

I say, Sir, since the treaty of Utrecht, that infamous treaty, as it is called by those who have made many infamous treaties since that time. But I will say, if there was any thing infamous in that treaty, if it was not so good as it should be, and might have been, it was occasioned by the opposition of the faction at home, and the obstinacy of our allies abroad. Surely, those who were concerned in negociating and concluding the late treaty of Aix-la-Chapelle, will not say, that there is any thing infamous in one or two members of a confederacy negociating or concluding separately: and, indeed, there can be no such infamy in the nature of things; otherwise it might be in the power of any one member of a confederacy, to establish the maxim, 'Delenda est Carthago,' to make the utter deletion of the enemy the only possible end of the war. Whatever the violence of faction might then propagate, it will now certainly be allowed, that after Charles, king of Spain, was chosen emperor of Germany, it became absolutely necessary for the Dutch and us to treat separately with France; for no man will say, that it was consistent with the balance of power, to unite the empire of Germany and monarchy of Spain under one head; and we could not expect, that the Dutch would concur with us, after we had given them hopes, by the infamous barrier-treaty, of making themselves masters of the whole Netherlands.

It was therefore, Sir, at that time, in many respects, become absolutely necessary for us to begin a separate negociation with France; and no man, at least no true Englishman, will say, that what we stipulated for our allies, was not what in conscience they ought to have been satisfied with, considering the small share they contributed towards the war. But above all things, I am surprised to hear some gentlemen talk of the treaty of Utrecht having left France an overmatch for any of her neighbours. Do not we know, that those very gentlemen, and their friends afterwards, endeavoured to terrify us with the ambitious views of the House of Austria; and by the treaty of Hanover actually joined in an alliance with France, for pulling down what they then called the overgrown power of the House of Austria? Those gentlemen, therefore, when they recollect, must surely allow, that the treaty of Utrecht did not leave France an overmatch for any of her neighbours; and indeed, every gentleman knows, though every one will not confess it, that the present summit of the power of France is entirely owing to the blundering measures we have pursued, and the more blundering treaties we have concluded since that time.

It is by this, Sir, and by this alone, that the House of Bourbon has got possession of so much power; and if the doctrine now broached should prevail, if it should come to be the opinion of a British parliament, that we are the weaker party, and that therefore, by force of arms, we dare neither vindicate our rights, nor repel the encroachments that House may make upon us; I shall now prophesy, that in a few years France will become an overmatch, not only for any of her neighbours, but for all the neighbours that can be got to unite against her; for as her neighbours have mutual jealousies, mutual contests, and mutual claims against each other, some of them will always join with her, in order to guard against their fears, or to make good their claims upon some of those who have united against her; and the greater her power is, the more ready they will be to join with her, the more difficult it will be to form any confederacy against her. But, Sir, the fate of this question will, I hope, shew, that this opinion has not as yet been adopted by a British House of Commons; and as it is far from being my opinion, I shall most heartily give my vote for agreeing to this motion.

The Earl of *Egmont*:

Sir; I was surprized to hear it said in this debate, that Dunkirk, in its present situation, can be of no prejudice to us in time of war, and may be of advantage to our trade in time of peace; and I was sorry to hear it admitted by some gentle-

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men, whose opinion I seldom chuse to dissent from, that we ought to be satisfied with having that port restored to the condition in which it was at the beginning of the late war. When it is said, that Dunkirk, even in its present condition, can be of no prejudice to us in time of war, surely gentlemen do not consider, that it is the only port of France from whence men of war or privateers can sail with an easterly wind to infest our eastern coast, and obstruct our Dutch, Hamburgh, Bremen, and Baltic trade. From all the other ports of France, even from Calais itself, there is no reaching our eastern coast but with a westerly wind; and their ships must sail in sight of any squadron of ours that may be in the Downs, and that with the same wind may follow and come up with them, before they can do us any mischief; but from Dunkirk their ships may sail to the eastward without coming in view of any of our squadrons, and with such a wind as locks our ships up in their harbours. Can gentlemen have forgot, that in 1708 a French squadron, with a great number of transports, sailed from Dunkirk, though we had then a superior squadron in the Downs? And if they had not mistaken the Frith of Forth, they might have landed their troops at Edinburgh, before our squadron could have come up with them, though it sailed in pursuit of them, as soon as we were informed of their departure from Dunkirk, without being detained, as they might have been, by a strong easterly wind.

It is this, Sir, that makes the port of Dunkirk of so much importance, and will always, even in its present condition, make it, in time of war, of the most mischievous consequence to this nation. I say, in its present condition; for it will now, at high-water, admit a ship of 60 guns; and four or five such would protect a fleet of transports against our cruisers; therefore, besides the danger of its harbouring privateers, we shall be in more danger of an invasion from that port, than from any port of France, because of its being so near the mouth of the Thames, where an enemy's landing would be of more dangerous consequence than their landing in any other part of the island, as the passage from thence to our capital is but short, and interrupted by no very difficult river. Nay, if we had no better intelligence than we seem to have had in the last war, I do not know but that an army of 15 or 20,000 foot might be embarked at Dunkirk, and, in spite of our little fort at Tilbury, sail up the river, and land at Blackwall, before we could hear of their being embarked, or at least, before we could make any provision for opposing them.

But, Sir, in case of a new war, and supposing the French had no measures to keep with the Dutch, can we imagine, that the port of Dunkirk would long remain in its present condition? The old channel is now clear, and might be made deeper in a very little time: the foundations of the piers, and of all the forts, still remain, and, consequently, might be very easily rebuilt; for our ministers took no care to have those foundations demolished, as they ought to have been in pursuance of the treaty of Utrecht: they thought only of screening themselves from any complaint in parliament, therefore they were satisfied with the demolition of what appeared above the surface of the water, and the French were wise enough to demolish no farther than they were forced to. But if the case I have mentioned should ever happen, I may prophecy, that in six months after the declaration of war, the port of Dunkirk will be made as good, and will be as well fortified as ever it was; and then it will be as good a protection, and as convenient a receptacle for their men of war and privateers, as it was before the treaty of Utrecht. This, Sir, they would have done during the last war, but until the very last campaign they thought themselves obliged to keep some measures with the Dutch; and having by that time got possession both of Ostend and Sluys, they had no occasion to put themselves to the expence of repairing the port of Dunkirk.

Now, Sir, supposing the port of Dunkirk thus restored, as it certainly would be in case the emperor and the Dutch should join with us in a war against France, let us consider its importance with regard to a brisk westerly wind. If any French ship of war should be cruising in the seas between Holland and this, and should be chaced by any of the Dutch or our ships of war, she would in such a wind be able to make the port of Dunkirk, and would there find a safe retreat: but if there were no port at Dunkirk, if she could there expect no safe retreat, she must either bear away to the northward, or be taken; for with such a wind it would be impossible for her to make Calais, or any of the other ports of France, or at least she would run the greatest risk of running

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into the jaws of some of our men of war that are generally lying in the Downs, or cruising in the channel.

After what I have said, Sir, I believe no gentleman will think that Dunkirk, if it continues to be a port, may not be of the most pernicious consequence both to us and our allies the Dutch, in case of a new war. And now with respect to its being an advantage to our trade in time of peace, I know no branch of our trade, to which it can be of any advantage, but that of smuggling. If we except tobacco, I believe there is not any one British commodity consumed in the French Netherlands; and as to the Austrian Netherlands, Ostend is a more convenient port for our traffic with them, than that of Dunkirk. I shall, indeed, except the city and chatellany of Ypres; but the expence of carrying goods from Ostend to Ypres, above that of carrying them thither from Dunkirk, will, I believe, be over-balanced by the convenience of landing them at an Austrian, rather than at a French port; and as to all the other parts of the Austrian Netherlands, Ostend is by much the most convenient port, because of the canal which goes from thence to Ghent, and thereby communicates with the river Lys and Scheld, so that the goods may go even to Brussels by water carriage, without going through the territory of any other potentate.

I come now, Sir, to that peaceful sort of opinion, that we ought to be satisfied with having Dunkirk restored to the same state it was in at the beginning of the war; and indeed, as this would be very much for the ease of our ministers, I should join in it, if I thought it consistent with my duty as a member of this House; but I cannot agree to the purchasing of their ease, at the expence of the honour and safety of my country: I say, the honour as well as safety of my country; because by the late treaty, as I understand it, and as an hon. gentleman says it was meant to be understood, it was expressly stipulated, that the port of Dunkirk should be as absolutely demolished as was agreed to by the treaty of Utrecht and that in 1717; and nothing is more plain, than that by these treaties it was intended, that there never should be a port at Dunkirk, or within two leagues of it, capable of receiving a ship or any vessel but small boats, and they not to be above sixteen feet wide.

This then, I say, Sir, was stipulated, if any thing was stipulated by the treaty at Aix-la-Chapelle. If Dunkirk had not been expressly mentioned in that treaty, our honour would not perhaps have been so much engaged to see that port demolished; but being thus expressly stipulated, we stand engaged in honour to see that article performed; for we might as well have offered the French a *charte blanche*, as to make stipulations, and afterwards leave it to them to perform, at what time, and in what manner they please.

Thus, Sir, we are in honour obliged to insist upon the 'entire destruction' (to use the words of the treaty of 1717) of the port of Dunkirk; and I have already fully demonstrated, that our safety, in case of a new war, is deeply concerned in the question. This, I say, is what we ought to insist on; for as to the method of doing it effectually, I shall admit that it has never yet been properly pointed out; and I am surprised, that in 1716 and 1717, we contented ourselves with stipulating, that the jettees or piers on both sides of the port of Dunkirk should only be made level with the ground; for while the foundations remain, they will make a channel: they will confine the land floods; and those floods being so confined, will always in time deepen the channel, and drive away any thing that may be laid or thrown into it for filling it up. Whereas, if you had drawn the piles and taken away the stones, on which the jettees or piers were founded, the water of the land floods would have spread, and would probably have never made any lasting new channel. With respect to the forts likewise, we ought not to content ourselves with having them laid flat to the ground; for if the foundation, that is to say, the piles and stones upon which they were founded, be left remaining, it will be easy to erect new forts upon the old foundations in a very short time.

These things, Sir, we have a right to insist on, though I do not say, that we ought to insist peremptorily upon them at present; but surely we may, and ought to insist upon demolishing all the improvements made to that harbour since the treaty in 1717, whether those improvements have been made by nature or art; therefore we ought to insist upon the harbour being again filled up, and made incapable of receiving any thing but boats or lighters; for if the French will not be at the expence of removing the foundations of the jettees or piers, which confine the land floods, and thereby clear the

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channel, they must and ought to resolve upon being at the expence of filling it up, as often as it is cleared by their neglecting to do what they ought at first to have done.

Having now, Sir, shewn what we have a right to insist on, and the fatal consequences that may ensue from our not doing so, give me leave to say something to the hon. gentleman upon the floor, who was pleased to give some very harsh names to this motion. I know it was formerly his custom, almost upon every occasion, to make use of what is commonly called bad language, but I thought he had left it off; for though a losing gamester, they say, has leave to swear, I never heard that the winner claimed any such privilege; and I shall leave it to be decided by those that hear me, which is most wicked, a minister's neglecting to do his duty, and thereby exposing his country to dishonour as well as danger; or a gentleman's making a motion in this House for obliging him to discharge faithfully his duty to his country; for all those who think the former the most wicked, will certainly join with me in this motion.

Mr. *William Pitt*:*

Sir; I must confess, that I have upon some former occasions, by the heat of youth and the warmth of a debate, been hurried into expressions, which upon cool recollection I have heartily repented; and I believe, the same thing has happened to many gentlemen in this House, especially the noble lord who spoke last. But what I said about the wickedness of this motion, I qualified in such a manner, that I think it could neither be called bad language, nor any way taken amiss; for I must observe, that the only point in debate has been departed from by the noble lord, and by every gentleman who has spoke upon that side of the question. Our right to have the port and harbour of Dunkirk entirely destroyed, no one denies, no one doubts of; and every gentleman has acknowledged, that if it should be restored to its former perfect and glorious state, it would, in case of a new war, be of the most pernicious consequence to this nation; but no one will say, that the French are now attempting any such restoration, nor will they, I believe, make any such attempt, whilst the peace continues between the two nations; and after war is declared, it would be very difficult, if not impossible for them, either to rebuild the piers or the forts, notwithstanding their foundations are still remaining; because, as we are masters at sea, and I hope will always continue so, we could by our ships of war and bomb-vessels so annoy their workmen, that it would be impossible for them to carry on the work.

For this reason, Sir, there is no question now before us, either about our right to have Dunkirk port demolished, or about the consequences of its being restored to its former condition. The only point in dispute is, whether, in the present circumstances of Europe, it would be wise in us to hurry ourselves into a new war with France, by insisting peremptorily upon a right, which we may vindicate when we please, which can no way suffer by a delay, and by the not vindicating of which we can no way suffer, whilst peace continues between the two nations. If the French were now beginning to repair the port of Dunkirk, the case would be very different; for as the vindication of our right would in that case become every day more difficult, it would suffer by a delay; and therefore it would be necessary for us to vindicate it as soon as possible; but as there is no complaint of that kind, we may, without the least danger, delay insisting peremptorily upon it, till circumstances become more favourable for us, especially as many accidents may happen for rendering them more, and hardly one for rendering them less favourable than they are at present.

Nations, Sir, as well as private men, must not at all times insist peremptorily upon the most rigorous exaction of what is due to them. Prudence may sometimes direct them to acquiesce under a delay, or even a refusal of justice: especially when their right can no way suffer by such acquiescence; and that this is our case at present, has, I think, been fully proved in this debate. Therefore, until a more convenient opportunity happens, we should leave this affair in the hands of our ministers; for should they for some time acquiesce under the non-performance of this article in the late treaty, it will be but a

* "Mr. Pitt, who answered lord Egmont, pressed his argument thus: 'If it should come out, that there is no innovation, as I verily believe the truth is, and that the port of Dunkirk is, as it was left by the treaty of Utrecht, explained in 1717, will any man say that it is a crime in the ministry, or a reason to quarrel with France? Will any gentleman say it? Does any one say it?' To this his lordship made no reply." Dodington's Diary.



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ministerial acquiescence, which can no way affect the credit or the character of the nation. But should the parliament once interpose, and afterwards acquiesce under a non-compliance with their demand, it would be a national, or at least a parliamentary acquiescence, which might affect not only our national character, but even our national right, at least so far, that without a new war we could never expect to have this article relating to Dunkirk complied with. Therefore, before we agree to this motion, we should consider, whether it would be prudent in us to declare war against France, in case they should not, upon the first demand, directly set about demolishing the port of Dunkirk; and no gentleman who considers the question can, I think, agree to the motion.

The House then divided, when the question was carried in the negative by 242 against 115.

*Debate in the Commons on a Bill for limiting the Time for Soldiers to serve in the Army**.] On the 15th of January Mr. Thomas Pitt moved for leave to bring in a Bill for limiting the respective times at, and conditions upon, which, every non-commission officer or soldier, now, or who may hereafter be such, in his majesty's service, shall be entitled to be discharged from the said service, notwithstanding a number of forces by land shall by authority of parliament be kept on foot; which motion being seconded, was agreed to, and Mr. Pitt, the lord Baltimore, and Mr. Sydenham, were ordered to prepare and bring in the same. On the 17th the Bill was presented and read a first time.

February 16. On the motion that the Bill be read a third time,

Lord *Barrington*† rose and said:

Sir; as a Bill of the same nature with this, was last session brought in, but was drawn up in such a manner that the House did not think it worth while to go into a Committee upon it, I had no great expectations this session, from any attempt of the same kind, but was resolved, so far as related to myself, not to oppose its progress, until it should be rendered as complete as its advocates could make it. We have it now before us in its state of full maturity, and if in that state I can shew, that little or no good can be expected from it, but, on the contrary, many and great inconveniences must ensue, I hope a negative will be put upon the motion for its being passed into a law.

As to the good expected from it, I never heard any other suggested, but that it would make recruiting easier and cheaper, and that it would be a means of having always a great number of disciplined men in the country, who might be of singular service to the government, in case of an invasion or insurrection. Now, Sir, as to recruiting, I very much doubt whether it will render recruiting easier or cheaper; I am sure, it will render the necessity of recruiting much more frequent; for every soldier in the army will insist upon being discharged, if it were for no other reason, but in order to get fresh levy money for inlisting again, either in the same or some other company; and as to a man's listing himself at first in the army, can any one suppose, that it ever proceeds from prudence and discretion, or that it is a deliberate act of the mind? It proceeds always, Sir, either from idleness, extravagance, or some sally of passion or disappointment; and therefore we cannot suppose that this Bill, were it passed into a law, or indeed any law you can make, will make recruiting a whit easier or cheaper; but on the contrary, as it will render it necessary to pay fresh levy money to every soldier in the army, as often as his term of service expires, the expence

* From the London Magazine.

† "William Wildman, viscount Barrington, was son and heir of John, first viscount Barrington, of Beckett in the county of Berks, by his wife Anne, daughter and co-heiress of sir W. Daines of Bristol, and one of the representatives in parliament for that city. He was born in 1717, and had a private education, though he manifested a decided predilection to Eton school, by sending thither two of his younger brothers, the late hon. Daines Barrington, and the present bishop of Durham, who were destined to learned professions, a predilection fully justified by their literary attainments. In the course of his political life, he became successively a lord of the admiralty, master of the great wardrobe, secretary at war, chancellor of the exchequer, and treasurer of the navy. The distinguished parts of his public character were great official talents, high sense of honour, unimpeached and unsuspected integrity. From his political situation, he had the means to have amassed a considerable fortune; but he died without having either encreased or diminished his paternal estate." Coxe's Memoirs of Horatio Lord Walpole.

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of recruiting in general will be vastly increased.

Then, Sir, as to the advantage of our having always a great number of disciplined men in the country, if that be an advantage, which I very much doubt of, I do not think this Bill can procure us any advantage of that sort; for now, in time of peace, if a soldier be a diligent, industrious fellow, and finds that he can support himself without serving in the army, he can easily procure his discharge, upon getting as good a man to list in his room; and were this Bill to be passed into a law, none but such would ever take advantage of it, with any other view than to get fresh listing money, so that the number of disciplined men we have in the country, would not thereby be increased, even supposing it to be an advantage to have a great many such: but this I have said I doubt of, and when I say so, I hope gentlemen will understand me right. To have the nobility, gentry, and principal tradesmen, shop-keepers and farmers, bred to military discipline, and endued with a martial spirit, is certainly an advantage to any country, and would be an advantage to this, because upon that depends, in a great measure, the internal strength and defence of a country, and it is the best defence that any country can be possessed of; but with regard to what is called the mob, it cannot, I am apt to think, be an advantage to any country, to have a great number of them bred to military discipline; for it may probably some day or other make the mob their masters, and to be in perpetual danger of this cannot be an advantage to any country.

From hence, I think, Sir, I may fairly conclude, that the good expected from this Bill is very precarious; but as to the dangers and inconveniencies that may ensue from it, they are numberless, and many of them certain. The expence of recruiting I have already mentioned; and, it is certain, that this expence would be very much increased; but, what is much worse, it would destroy all discipline in the army; for after a soldier had served his time, his officer would be afraid of correcting him for any little offence or neglect of duty, lest he should be thereby provoked to demand his discharge, and so put him to the trouble or expence of recruiting: nay, every such soldier would grow so saucy and impertinent, that there would be no bearing him, and their example would of course corrupt all the rest; so that it might be productive of mutinies, as well as a depravation of discipline in the army. When I mention mutinies, Sir, I cannot but observe, that in one case this Bill would almost certainly produce a mutiny as often as the case occurred. The case I mean, is that of a regiment being ordered to Gibraltar, Port-Mahon, or the plantations. In every such case we must suppose, that there would be a number of soldiers in the regiment, within a year or two of their time of service being expired; can we suppose, that such men would willingly go along with the regiment? Can we avoid apprehending, that they would raise a mutiny? And as soldiers do not like to imbrue their hands in the blood of their companions, especially when they think the mutineers have reason on their side, these little mutinies might at last produce a general mutiny in the army.

Another inconvenience would be, Sir, if this Bill had any effect, that it would strip our army of all its veteran soldiers: by a veteran I mean a soldier that has been in action, and that army, or that corps, is always the best, which has the greatest number of such soldiers in it; for a soldier who has once been in action, will always go on with less concern, and be more master of himself and every part of his duty, than a man who has never been in any such service. A regiment of fresh men may have as much courage, may be as much masters of their exercise, and may at a review go as exactly and as nimbly through every part of it, as a regiment of veteran soldiers; but it has always been observed, that in the day of battle, the former is more apt to fall into confusion, and not so easily or quickly rallied as the latter; for which reason all our veterans ought to be kept in the army as long as they are fit for service. In France, indeed, where, in time of peace, they keep on foot an army of 150 or 160,000 men, they may spare a few veterans, especially as their government can force them into the service again, as soon as a new war commences; but in this country, where, in time of peace, we keep on foot such a small number of regular troops, and where the government cannot force any man into the service again after he has been once discharged, we should be extremely shy of parting with any of our veteran soldiers.

Another inconvenience, Sir, which would proceed from this Bill, is this: it

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would fill the country with a number of idle and dangerous vagabonds: some common men may be drawn into the army by a sally of passion, the ambition of rising to be an officer, or some such cause, though in their nature sober, frugal, and industrious; but we know that idleness, extravagance, and dissoluteness, are the causes that send most common men into the army. Can we suppose, that such men would return to hard labour, and submit to live upon such hard fare as labourers in country places must live upon? Nay, even suppose a fellow to have been of an industrious, frugal disposition when he went into the army, yet after he has, by being seven years in the army, got a habit of idleness and extravagance, we can hardly suppose that he will afterwards ever think of earning his daily bread by hard labour. The consequence is, that all such fellows would become vagabonds, and they would be most dangerous vagabonds; for they would be the first in every mob or riot, and, what is still worse, the last to disperse: an insurrection of colliers, weavers, or any other sort of men, would then become a very dangerous affair; for these vagabond soldiers would presently mix among them, and as men who have once worn a red coat, are not so much afraid of red coats as those who never have, their example would give courage to the mob, and their conduct would make every mob an affair of the most dangerous consequence; for if they should happen to defeat the first party of regular troops sent against them, they might soon increase their number so as, under the leading of such men, to become too mighty for the government itself to deal with.

Whatever advantages some gentlemen think we may reap from having a great number of country fellows bred up in the army, and afterwards let loose to live where they please, and as they please in the country, I am of opinion, Sir, that the ill consequences would be much greater than any good that could be expected from it, for besides the ill consequence I have already mentioned, of making all mobs and riots more dangerous, it would draw numbers away both from our manufactures and agriculture: a man taken from the plough, and listed for seven years in the army, would never afterwards, I fear, make a good ploughman; and as to all sorts of manufactures, they require long use as well as great dexterity: therefore we cannot suppose that a soldier, after being seven years in the army, would ever be able to get his bread at any sort of manufacture, even though he had been bred to it from his infancy; for in that time he would forget a great part of what he had learned, and his hand would be so much out of use, that he must starve before he could recover either the use of his hands or the skill he had forgot, so as to be able to live by his trade: of this we may be convinced from daily experience; for we seldom if ever see an old soldier return to the trade he was bred to, unless it was such an one as he continued to exercise even while he was in the army.

As to any arguments that may be drawn from the hardship of listing men for life in the army, one general answer will serve for all, which is the old maxim, always hitherto deemed to be a right one, that the conveniency and interest of particular men ought always to give way to the conveniency and interest of the community in general. When I say this, Sir, I am far from admitting, that it is a real hardship upon any man to be listed for life in the army. It is his trade, and the trade he chuses: when he lists, he knows the condition upon which he lists: he knows the condition to be, that he must never leave the service without a discharge from his commanding officer; and if he does his duty, his commanding officer can never use him ill; for by the laws of war an officer is as liable to be tried and punished for using a soldier ill, as a soldier is for disobeying his commanding officer; and as the captains of companies as well as the colonels of regiments are often changed, if a soldier happens at one time to be under a harsh and severe officer, he has a chance, at the next remove, to meet with an officer as mild and humane. Therefore the military can never justly be called a slavish service; and consequently it can be no hardship to subject a man to it for life, after he has voluntarily, wittingly, and deliberately chosen to enter into it. I say wittingly and deliberately, because the law has provided that no man shall ignorantly or rashly engage himself in that service, by ordering the articles of war against mutiny and desertion to be read over to him when he is listed, and by giving him four days after he has listed, to consider of what he has done, and to undo it, if he repents.

Besides all I have said, Sir, I have a particular reason for being against this

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Bill, and indeed, any Bill for the same purpose: my reason is, because I am for having always in our army as many Scottish soldiers as possible; not that I think them more brave than those of any other country we can recruit from, but because they are generally more hardy, and less mutinous: and of all Scottish soldiers I should chuse to have and keep in our army as many Highlanders as possible, because I should always chuse to have an army recruited from a country where they have neither ploughing nor manufacture, rather than from a country where they have both: and because, every soldier we take from some parts of the Highlands of Scotland, may be looked on as a soldier taken from the Pretender. But these, in particular, we should be careful to keep in our army, as long as they are fit for service; and therefore if I had no other reason, this alone would make me against passing such a Bill as this into a law.

Mr. *Thomas Pitt:*

Sir; my expectations were much the same with those of the noble lord who spoke last, though proceeding from a different cause; for his expectations were, or at least, as he has said it, I must suppose they were, that no proper Bill for the purpose could be drawn up, and therefore he could have no expectation that the Bill would pass: on the other hand, I suspected our ministers were against having any disciplined soldiers in the kingdom but such as they have in their pay, and subject to their power by being included in the Mutiny Bill; and therefore I had very little expectation, that the most proper Bill that could be formed for a contrary purpose, would pass into a law. Nevertheless, I was resolved to put it to the trial; and whatever objections may be made to any particular part of the Bill, the general principles upon which it is founded must be acknowledged to be right: nay, they have been acknowledged to be right, even by all the officers I have conversed with upon the subject; and I am so confident of their being so, that, if desired, I would set my name to the preamble, and should not be against its being fixed up at Westminster-hall gate, and all the public places in the kingdom, with my name in capitals at the bottom of it.

In the drawing up of this Bill, Sir, I took advice of some of the most experienced officers of the army: I desired they would inform me of every inconvenience they apprehended might ensue from the passing of such a Bill; and I took all possible care to obviate every inconvenience they suggested, not because I thought it in every case necessary, but because I was resolved to prevent, as far as possible, every objection: I have been, I confess, so very careful in this respect, that I do not myself approve of the Bill as it now stands; and the most solid objections that have been, or indeed can be made against it, are founded upon the care I have taken, that the Bill should be no way inconvenient to the officers of our army. This makes me in some measure indifferent whether the Bill now before us be passed or no; but I can assure those gentlemen, that if this Bill be not agreed to, a much better Bill, though more inconvenient for them, will some day force its way through every branch of our legislature; for slavery is so inconsistent with our constitution, and so contrary to the nature of an Englishman, that the soldiers themselves will at last join in vindicating their own liberties, and restoring the constitution of their country.

The liberty of the subject, Sir, is so deeply rooted in our constitution, that no slavery, no not even of the meanest subject, can be admitted: even foreigners must be considered as freemen, while they remain in this kingdom; and the black slaves of our plantations become free, as soon as they set foot on this once happy island. In absolute and arbitrary monarchies, liberty is confined to one: in Aristocracies it is confined to a few; but in this country, and by our constitution, it was till very lately extended to all. It was not only extended to all, but extended so unalterably that no man could renounce it, even by his own act and deed. But since Mutiny Bills have been introduced, I must look upon our soldiers as slaves; for every man who is bound to a master for life, I must look on as the slave of his master: good or bad usage can make no difference; for in those countries where slavery is allowed, a slave may happen to meet with a kind and humane master, yet he is no less a slave than one that has the misfortune to have the most severe and cruel master. And if we thus continue our soldiers in a state of slavery, they may, perhaps, become the invaders, but I am sure they can never be depended on as the defenders of our liberties.

I shall most readily agree, Sir, that in the condition in which our soldiers are at

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present, a man's listing in the army can never proceed from prudence or discretion, or from a deliberate act of the mind; for no man in his right senses would ever bind himself for life to serve another man, and not only to be bastinadoed, whipt, and tortured, whenever his master pleased to be angry with him, but also to be put to death, if he ever left the service without his master's consent; but this, Sir, is one of the very evils that is proposed by this Bill to be remedied. I think we should put an end to the practice of allowing subaltern officers and serjeants to go prowling up and down the country, in order to trepan and kidnap unthinking young fellows into the service. Whilst this is the case, and this will be the case as long as soldiers are listed for life, the service will always be despicable in the eyes of the people, and none but the most abandoned or the most thoughtless will ever enter into it. Whereas we should endeavour to render it honourable, as it really ought to be, in the eyes of the people. If we could do this, all the brave young fellows in the country would be fond of entering into it for a few years; and would enter not only deliberately and willingly, but freely, without either fee or reward, by which means the whole expence of listing money would be saved to the public, in time of peace, and even perhaps in time of war.

I am indeed afraid, Sir, that the time of service limited by this Bill, is a great deal too long for producing so good an effect: ten years is a longer time than any man can stand in need of for learning the trade of a soldier, and a much longer time than any young man can spare, who thinks of applying himself to some other business after his time of service is expired; but I was willing to prevent every objection, and therefore I chose the longest time that could with any reason be proposed, and a much longer time than I thought necessary; for in the first Mutiny Bill passed after the peace of Utrecht, which was called, "An Act for better regulating the forces," it was enacted, That every soldier, who had then been in her majesty's service for the space of three years, should be at liberty to demand his discharge, if he thought fit; and that every one afterwards listed should, after three years service, be at liberty to demand his discharge; and farther, that such discharges should be granted gratis in writing by the colonel, who was thereby empowered and required to grant the same accordingly. As this regulation continued in force for above two years, without producing any bad effect, I was of opinion, and am still, that the time of service might be limited to three years, as it was at that time, without any danger, especially as the soldier demanding his discharge, in pursuance of this Bill, is to pay for it, as much as it will probably cost the officer to list a new man in his room; therefore, if the House thinks fit to amend the Bill, and put three instead of ten, I shall most readily agree to it. But as this Bill introduces an alteration in a practice that has obtained for several years, and as some people cannot easily be induced to alter a practice they have been accustomed to, however reasonable or necessary the alteration may be, I should rather for the present be for continuing the Bill as it is, lest such an alteration should occasion an opposition in another place; for if we can once get a Bill of any kind for the purpose now designed, it will be easy, in some future session, to make such amendments as may then appear to be necessary or proper.

I was surprised, Sir, to hear the noble lord say, that this Bill will increase the expence of recruiting to the public, or that any soldier will, at the expiration of his time of service, demand his discharge, without any other view than that of getting fresh levy money for listing again in the same, or in some other company. The noble lord certainly overlooked that part of the Bill, whereby it is provided, That every soldier shall pay for his discharge as much as in all probability will be necessary for inlisting a fresh man in his room: How then is it possible to suppose, that this Bill will increase the expence of recruiting to the public? When it is publicly known, that every soldier may at the end of ten years have his discharge if he pleases, on the payment of a small sum of money, will it not increase the numbers of those who are ready to inlist? Will it not make every man of common sense less shy of inlisting? And will not this gradually bring down the price paid to men for inlisting? Sir, there is not a broker upon the Change of London but can tell you, that if you increase the quantity of goods at market, without increasing the demand, you must necessarily lower the price. Then as to a soldier's demanding his discharge, with no other view but to get fresh levy money for listing again, can such a thing be supposed, when he must pay at least as much for his discharge from one company, as he can expect for listing in another? In short,



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Sir, I think it is evident to a demonstration, that this Bill will diminish the expence of recruiting to the public, and render it much less troublesome to the officers of our army; but as this trouble falls only upon the subalterns and serjeants, I cannot expect that this argument will have its due weight with the superior officers.

The noble lord was pleased to tell us, Sir, that a soldier may easily procure his discharge upon getting as good a man to list in his room: that this may sometimes be the case, when a soldier happens to have to do with a very generous officer, or when he gets some gentleman of consequence to interpose in his favour, I shall not deny. But from all the information I could ever have, I will aver, that it is very rarely the case; and I believe, there are few gentlemen in the House, who, from their own experience, cannot give instances of the contrary; nay, I have heard of large sums being exacted by officers upon this account, besides that of furnishing another good man in the room of the soldier who wants to be discharged; for in this case the officer's demand is generally proportioned to what the soldier or his friends can give, and the necessity he is under of procuring his discharge; for which reason, when a soldier wants to be discharged, he takes all possible care to conceal his circumstances from his officer, and to avoid seeming to be fond of having his discharge. Even in recruiting, when a serjeant or officer has found means to inveigle a rich farmer's son to inlist, we know, that there is no getting him off again, without as large a purse of gold to the captain as the father can spare to give, though the son never appeared in the regiment, nor was the officer ever at any expence or trouble in carrying him thither, or in teaching him his exercise. The exacting large sums of money for the discharge of soldiers, is so well known to be the common practice, that, I think, every gentleman who happens to be an officer in our army, should be cautious of giving a negative to this Bill, lest it should be thought, that his true reason is to prevent his being deprived of that perquisite; for though I am far from supposing that any gentleman who has the honour of a seat in this House, would stoop to such an unjust perquisite, yet if the Bill be rejected, the world will be apt to suspect they do, and that this was one of the secret reasons for its being rejected.

Now, Sir, with regard to that of our having always, by means of this Bill, a much greater number of disciplined soldiers in the kingdom than we have at present, I believe, no one who considers the difficulty I have just mentioned, of a soldier's getting out of the army while he is fit for service, can doubt of this being the consequence. But this of our having a great number of disciplined soldiers in the kingdom, we are now told, would be of the most dangerous consequence. At first view this seems really to be a paradox; and to prevent its appearing so upon a second as well as first view, it is supposed, that every soldier who demanded his discharge from the army, would turn an idle vagabond; but this I must absolutely deny; for considering the just severity of our laws against vagabonds, we may assure ourselves, that no man would, in pursuance of this Bill, demand his discharge from the army, or indeed be able to pay the money necessary for obtaining it, unless he had a settlement in view.

This, I say, Sir, would be the case, even supposing the common soldiers of our army should never consist of men of better condition or character than at present; but if the time of necessary service were limited, if all soldiers were entitled to demand their discharge after ten years, or a shorter term of service in the army, I am persuaded, that the sons of many of our substantial farmers, shop-keepers, and tradesmen would list in the army, in order to make themselves masters of military discipline; and would return to the business they had been bred to, as soon as their term of service was over; so that in a little time, if encouraged by our court, it might become fashionable even for the sons of gentlemen as well as farmers and tradesmen to serve a few years in the army, after which they would be fond of being in our militia; and this, without any new regulation as to our militia, would render it more useful, and more to be depended on, than it can be at present, or indeed ever can be, so long as we confine military discipline to those only that are in the actual pay of the government, and subject to the laws against mutiny and desertion.

Thus, Sir, by means of this Bill, especially if the term of service should hereafter be shortened, we may obtain that which the noble lord has allowed to be an advantage to any country: we may at last arrive at having our nobility, our gentry, and our principal tradesmen, shop-keepers, and farmers bred to military discipline, and

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endued with a martial spirit; which would be a greater security against an invasion from a foreign enemy, than any army of mercenary troops we can keep in pay; and I am sure, a much more proper safeguard against an invasion upon our liberties by domestic foes.

I shall never attempt, Sir, to despise or depreciate that security, which is derived to us from our superiority at sea; but I will say, that if military discipline and a martial spirit were universally spread among the people of this island, and every part of the country well provided with arms, it would be a more infallible security against a foreign invasion, than any we can expect by means of our navy; and considering the vast armies kept up by our rival in power and glory, it is a security which we ought to have recourse to, and provide ourselves with as soon as possible. We cannot pretend to keep up standing armies equal to those of our rival; therefore we ought to do what all wise nations do that are in the same circumstances: we ought to propagate military discipline and a warlike spirit among our people in general; that in case our rival should at any time attempt to invade us with a much more numerous army than any we can keep up, and should by some accident escape our fleet at sea, we might be able to meet them upon equal terms at land. If the Swiss had kept up a standing army, and neglected military discipline among their people, they would have been conquered long before this time by some of their potent neighbours; and we read, that when our neighbours in Scotland were like to fall out with us in 1704, they did not think of raising and keeping up a standing army, because they knew they could not keep up such a numerous one as we could, but they wisely resolved to make their whole nation an army, and passed a law for arming and disciplining every man in their country; and now that they are so thoroughly united with us, I hope, they will join in taking the same measures for our mutual defence against France, which they then thought necessary to be taken for their defence against us.

If we do this, Sir, we may then reduce the number of what is called our standing army, to what is properly meant by guards and garrisons, which could never exceed 5 or 6,000 men; and then we might spare to keep 20,000 seamen in pay even in time of peace. But instead of this, we have for many years discountenanced all manner of military discipline among our people in general, and in order to keep up a numerous standing army, we have taken every opportunity to reduce our naval force; by which we expose ourselves both to our foreign and domestic enemies: for our standing army, or any standing army we can keep up, if we should lose our superiority at sea, would be of no avail in defending us against the numerous armies of our rival, but may be fully sufficient for enabling our domestic enemies to deprive us of our liberties; and the certain consequence of this will be, that our sovereign must hold his crown by the courtesy of France; in which case we may easily foresee what will become of our manufactures, our plantations, our commerce and navigation. Whereas, if we should propagate military discipline and a warlike spirit among our people in general, though we should lose our superiority at sea, our king might bid defiance to the most numerous armies France could bring against us; for however much our present militia may be despised, I must insist upon it, that the militia of any country may be made as good for action, though perhaps not so alert at the punctilios of a review, as any regular troops whatever, who have never before been in action; and the story of Richard 2, when he was threatened with a most formidable invasion from France, and destitute of any fleet for his defence, may shew us, what a prodigious army our king might raise, upon a short warning, if all the inhabitants of this island were bred to, and provided with arms; for in a few weeks that king, who was none of the best beloved, assembled, near London an army of 200,000 fighting men, which made the French give over their design, though they had got together at Sluyce in Flanders a fleet of 1287 sail, and an army of 60,000 men ready to embark.

From what I have said, Sir, the security and advantage we may reasonably expect from the Bill now before us, and the improvements that may hereafter be made upon it, will manifestly appear; and as to the inconveniences and dangers that have been suggested, I think, they are as chimerical as any that were ever fancied by the most melancholy and fruitful imagination. If the army were not made such a bugbear, by fixing every man in it for life that can once be drawn into it, recruiting would be so cheap and easy, that no officer would be under the least concern about a man's demanding his discharge:

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on the contrary, all those men who chose to be in the army, rather than betake themselves to any other employment, would be more obedient, and more careful of their duty, than they are at present, for fear of being dismissed out of the army, and forced to earn their daily bread by hard labour.

From hence therefore, Sir, there is not the least danger to be apprehended of any mutiny or neglect of military discipline; and as to the danger that may arise from a regiment to be sent to Gibraltar or Portmahon, I have been told, that a resolution has been taken, to send a fresh battalion to each of those garrisons every year, and bring home the one that has been longest there. If we hold to this resolution, even those soldiers, whose time of service is near expired when the battalion they belong to is sent thither, will go without mutinying, when they know they are to stay there but five or seven years at most; for, I think, we never have above seven, and generally in time of peace, but five battalions in either of those garrisons. But as I am for making the army as agreeable as possible to every one that enters into it, and as we must always have men of war sailing to, and returning from the Mediterranean, why may we not by those men of war send out recruits, and bring home those soldiers whose time is expired, and who desire to be discharged the service? The expence would be so trifling, that it is not to be put in the balance with that of rendering the service in the army agreeable; and I am sure, this ought to be the method, with respect to every regiment or company employed in our plantations; because it would contribute very much towards increasing the number of labouring people in all our colonies and plantations; for numbers of young men would list in the regiments and companies upon duty there, with a view to get a free passage, and to settle in some business there, as soon as their time of service in the army should expire.

As to that of stripping our army of all its veterans, Sir, I shall grant that a veteran soldier, a soldier who has been in action, is better than one who never saw any thing but a review, provided the former continues in the service willingly and freely; but I should chuse to have an army consisting wholly of fresh soldiers, who serve willingly and freely, rather than an army of veterans, who are forced to serve by the fear of being shot if they should leave the service. Besides, Sir, why should we suppose, that all the veterans would leave the service if they could? Experience can suggest no such apprehension; for in 1713, when that law was made, which gave almost every soldier then in our army a title to demand an immediate discharge, there were very few of those veterans who had so bravely and so successfully served in Flanders, that desired their discharge: on the contrary, it was with great reluctance, that those veterans left the army, who belonged to the regiments that were disbanded, and every one of them was fond of getting into a regiment which they thought in no danger of being broke. To this I must add, that we are in much greater danger of having our veterans dismissed, than of their leaving the service; for of late years we have always seemed fond of having our regiments consist wholly of tall, smug young fellows, in order to make a fine appearance at a review; and to effect this, many an old rough veteran has been dismissed the service sore against his will.

But supposing, Sir, that most of our veterans should, by the insolence of young unexperienced officers, be provoked to take the benefit of this act, and demand their discharge, do we think that they would not list again if their country were invaded, or in any real danger of being invaded? They might not, perhaps, chuse to list again in our army, when we engage in wars for preserving the balance of power in Europe, and send armies abroad to protect those who will not be at the expence of protecting themselves: these are causes of war which can be comprehended by none but refined politicians; and happy had it been for this nation, had our parliaments never comprehended or adopted any such cause of war; but I have so good an opinion of a veteran English soldier, as to think, that, notwithstanding his being out of the army, he would scorn to be an idle and cowardly spectator of any real danger, to which he might see his country exposed; and if any of them should shew themselves so very regardless of their country, they might be forced by act of parliament to serve again in the army; for king and parliament have as absolute and as unlimited a power in this island, as the French monarch has in the kingdom of France.

Having thus, Sir, shewn, that there are no real dangers or inconveniences to be apprehended from the passing of this Bill into a law, I must conclude, that if it



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be rejected, it will not be for the reasons that have been or can be assigned, but for reasons that must not be openly avowed. What those reasons may be, I shall not pretend to explain; but I must observe, that if ever any scheme be formed for depriving us of our liberties, and establishing arbitrary power, the only methods by which such a fatal change can be brought about, must be, to keep up a numerous mercenary army, to secure a blind obedience in that army, by sanguinary laws and a multitude of severe punishments, and to take care that there shall be as few disciplined soldiers as possible in the nation, besides those listed in the army. The patrons of such a scheme may despise an undisciplined, unarmed mob, as long as they have an obedient regular army at their back; but they have great reason to be afraid of disciplined soldiers mixing with that mob, because it may then become too mighty for them, though supported by their army, to deal with; and as an English army will always, I hope, be as unwilling to imbrue their hands in the blood of their countrymen, as in that of their companions, I therefore hope that our army will never support any government that gives the people a just cause for rising in rebellion against it.

Lord *George Sackville*:

Sir; whether the dangers and inconveniences that may arise from the passing of this Bill be real or imaginary, is a question that may certainly admit of some dispute; but there is a maxim that never yet was disputed, and that is the maxim often repeated by our best lawyers and greatest patriots, 'Nolumus leges Angliæ mutari;' for it has always been allowed, that no new law ought to be introduced, unless there appear to be a very manifest defect in the old, and a defect which is attended with some public inconvenience of a very pernicious nature. To imagine, that any human regulation can be so perfect as to be attended with no inconvenience, is surely chimerical; and human foresight is so short, that it is impossible for us to see all the inconveniences, which an alteration of any standing law may be attended with. We should not therefore fly to alterations, and what we may call amendments, upon every little inconvenience that may appear; for if we did, we should every session be altering the whole body of our laws; and very probably, like the tinkers, where we mended one hole, we should make two; where we removed an old inconvenience, we should introduce two new ones; which has so often been the case, that in a conversation about amending the law, a very learned and experienced judge, now deceased, gave it as his opinion, that the best way to amend the law, would be to repeal all the laws that had been made for 100 years past.

Now, Sir, before we agree to the passing of this Bill into a law, I should be glad to know what inconvenience there is, either of a public or private nature, in detaining a listed soldier in the service, until his majesty shall think fit to disband the regiment, or his officer shall think fit to grant him his discharge. As to the public, I am sure it is, instead of an inconvenience, a very signal advantage; for in case of a war, it is surely better for the public to be served by veteran or well disciplined soldiers, than by men newly listed, and quite ignorant of any sort of military discipline. And as to private men, I shall grant it is an inconvenience for a man to be bound to the performance of any contract he makes; but for that reason, I hope, you would not make a law for rendering all contracts, made or to be made, invalid, unless both parties were willing to perform the same; for such a law would put an end to all commerce and intercourse among mankind, and consequently would be a greater inconvenience to every private man, than that which arises from the law as it stands at present; and I can see no reason, why a listed soldier should not be bound to the performance of the contract he enters into by listing, as well as to that of any other contract he makes; for as the law now stands, no one can say that he is drawn into it by his own rashness, or by any trick in the person that lists him, because he has four days to consider and avoid what he has done, which is more than is allowed with regard to any other contract, not excepting that of marriage, which is a contract for life, as well as that of listing for a soldier.

The Bill now before us cannot therefore, Sir, be founded upon any known inconvenience in the law military, as it now stands, but must rest wholly upon the advantages expected from it; and there is a very strong argument from experience, against our having any expectation of that kind; for if giving our soldiers a right to demand their discharge after ten years service, could make recruiting easier, or increase more

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the number of disciplined men in the kingdom, surely the giving them a right to demand their discharge after three years service, would have a much greater effect in both these respects; yet I never heard that the law made for this purpose after the peace of Utrecht, was attended with either of those advantages in any the least degree. From hence, I think, I am well founded in supposing, that, as to both these advantages, this Bill would have no effect at all; and so far as I can recollect, these two are the only advantages which the promoters of this Bill pretend to expect from it. But besides being founded upon experience, my supposition is likewise founded upon the nature of mankind; for what is it that induces a man to list in the army? It is generally either his natural disposition, or some misfortune he has met with in his place of birth or residence; and let it be which of these you will, the same cause that made him list, will make him continue in the army as long as he can, unless he meets with some extraordinary good fortune, such as a rich wife, large legacy, or the like; so that were this Bill passed into a law, as it would produce no alteration in the nature of mankind, recruiting would remain as difficult and expensive as it is now, and few of those once listed would ever demand their discharge, or make room for others to list, as long as there appeared no likelihood of a war: Consequently, we should never, by means of such a Bill as this, have more disciplined men in the kingdom than we have at present.

I therefore think it evident, Sir, that this Bill, should it be passed into a law, could produce no one good effect; but might, nay, I think, it would certainly produce several bad effects; for either the colonel of every regiment must dismiss every man in his regiment, as soon as his time of service was expired, or he could never depend so much as for one day upon having his regiment complete; and the soldiers would be every day changing from regiment to regiment, or from company to company. I do not say, they would leave the army; but whenever a soldier, whose time was expired, took a dislike to his captain, he would demand his discharge, go a rioting for a few days, and then list in another company, perhaps of the same regiment; and if the soldiers of a regiment took a fancy that their major or adjutant was a little too severe, all such of them as had served out the time allotted by law, would demand their discharge, and go list in other regiments; nor can we suppose, that the officers of other regiments which wanted recruits, would refuse to receive them; for officers will always chuse to have a disciplined rather than an undisciplined man, because it saves them the trouble of teaching them their exercise, and very probably too, they might always have them at a cheaper rate than fresh recruits.

What a confusion this would occasion in our musters, what a nonplus a colonel might be put to, when his regiment was just going to be reviewed, perhaps by his sovereign, may easily be imagined; and this, I am sure, cannot be said to be a chimerical apprehension. Then, Sir, with regard to the clothing, can we suppose, that any soldier entitled to his discharge, would demand it, with old regimentals upon his back? No, Sir, we may rest assured, that he would wait till the regiment was new clothed, and when he had got his new clothing on, he would then demand his discharge; and thus the colonel might be put to the expence, not only of recruiting but of new clothing the greatest part of his regiment a second time.

With regard to the changing of quarters too, Sir, this Bill, if passed into a law, would be attended with an unavoidable inconvenience; for every soldier entitled to his discharge, would certainly demand it, if he did not like the new quarters the regiment was ordered to; and we may suppose, that no such soldier would ever go to Ireland, in case any regiment should be ordered thither; nor would many of the soldiers in the regiments now there, ever leave that country, in case of their being entitled to their discharge, at the time of the regiments being ordered home. And as to Gibraltar, Port Mahon, and the plantations, we could never send any regiment to any of those places, or do justice to the regiments now there, by calling them home in their turn to their native land, for if a regiment was ordered to any of those places, I do not think there is a doubt to be made, but that every soldier in the regiment entitled to his discharge, would demand it, probably just when the regiment was going to embark, so that the colonel could not have time to recruit, nor have it in his power to carry a complete regiment thither, any other way than by giving such a premium to every soldier so entitled to his discharge, as he pleased to demand, for his agreeing to go along with

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him; and such demands, I believe, very few colonels would be able to comply with.

These, Sir, are some of the inconveniences which I now foresee must necessarily arise from this Bill, if passed into a law; and many others might ensue, which none of us can at present foresee; but those I have mentioned are, I think, sufficient for inducing every gentleman to be against this Bill, who has a regard for the safety of his country, and thinks it cannot be secured without keeping on foot a number of regular troops. I should be as fond as any gentleman in this House of propagating military discipline and a martial spirit among all ranks of men in this kingdom, and I would most readily agree to any regulation which had the least appearance of being effectual for that purpose; but the Bill now before us has not so much as the appearance of producing any such effect; for no man of any tolerable circumstances in life, will deliberately list as a common soldier in the army, when he knows, that if he once lists he must remain in the army for ten years, unless his officer shall within that time think fit to grant him a discharge. Ten years, Sir, is too great a part of human life, according to the common course, for any man to continue in the army, merely for the sake of making himself master of military discipline; and if you should shorten this term of necessary service, it would add weight to every inconvenience I have mentioned.

I will go farther, Sir; I will say, that if you should shorten the time, it might endanger our present happy establishment; and even the time now prescribed by this Bill might be attended with some danger of that kind. We know, and I am sorry to say, that we have many great families disaffected to our present happy establishment, especially in the North and Highlands of Scotland: they have a commanding influence over all those of their clan, and all the farmers within their estates: they would prevail with, or rather command every young fellow, whose father had any dependance upon them, to list and serve his time in the army; and by this means they might provide themselves with a great number of disciplined soldiers, to be employed for overturning our present happy establishment, as soon as an opportunity offered. It is well known, that the disaffected chiefs in the Highlands of Scotland made use of the independent companies kept up in that country for this very purpose; and since the breaking of those companies, they have made use of the Scottish regiments in the Dutch service for the same purpose. It was this that made the late rebellion so formidable, and at first so successful: that army of rebels was not made up of shepherds, or fellows just taken from the plow, as it was represented, through ignorance or design, by the friends to the government here: it was chiefly composed of disciplined soldiers, and commanded by noblemen and gentlemen of rank and courage, though, I believe, of no great fortune; and if this Bill should pass into a law, we may soon expect to hear of such another army's appearing in favour of the Pretender.

This, I say, Sir, is a danger which may be justly apprehended, even from this Bill, should it pass into a law; and if the term of service in the army were to be shortened, this danger would become more certain, and more imminent. I shall grant, there is some danger in our not having any disciplined men in the kingdom, but such as are in our standing army, and subject to military law; and I wish with all my heart it were otherwise; but whilst we have a superiority at sea, it is, I think, hardly possible, for a foreign enemy to invade us with a number of regular troops superior to those we may now meet them with, should they have the good fortune, or rather, I should say, the bad fortune, to land in this island; and whilst our army is commanded by gentlemen of rank, and gentlemen whose proper estates are of much greater value than any thing they can expect from their service in the army, I think, we may depend upon it, that an army so commanded, will never support a prince or minister in any scheme for the establishment of arbitrary power, which would of course render every man's property precarious.

But supposing, Sir, that either this foreign, or this domestic danger, were in our present circumstances to be justly apprehended, I have shewn, that neither the one nor the other could be prevented or rendered less to be apprehended by the passing of this Bill; but on the contrary, that both would be thereby rendered more to be apprehended; for if it added to the number of disciplined men not retained in the army, it would be only among such as would be ready to take arms against us upon any invasion; and it would load the officers of our army with such an expence, and expose them to so many inconve-

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niences, that no gentleman of an easy fortune would ever accept of a commission in the army; therefore, though I should willingly agree to any Bill I thought effectual for propagating military discipline, and a warlike spirit among all ranks of men in this island, I cannot give my consent to the passing of this Bill into a law, and consequently must give my negative to the question.

Lord *Strange*:

Sir; the gentlemen who oppose this Bill treat it in a very odd manner: when the advantages which the country may reap by having the Bill passed into a law, are brought under consideration, they then tell us, that it will have no effect; but when the inconveniences, which the army may be exposed to, are to be considered, they then tell us, that the Bill will have a very great effect. As to the first of these conclusions, I shall agree with them, that the Bill, in its present form, cannot have any considerable effect: ten years is such a long apprenticeship, such a great part of a man's life, especially as his military apprenticeship cannot begin till after that age at which most other apprenticeships are ended, that, I believe no man in his sober senses will enter into it; therefore I doubt much if this Bill will render recruiting a great deal easier or cheaper than it was before: and after a man has served ten years in the army, and has thereby got a habit of idleness, I doubt as much of his ever chusing to return to hard labour; especially as he knows, that ten years longer service will entitle him to Chelsea-hospital, by which means he may have an opportunity to pass the whole remaining part of his life in ease, affluence and idleness; from whence I must suppose, that this Bill will not add much to the number of disciplined men in the kingdom.

But still, Sir, I am of opinion, that with respect to both these advantages, the Bill will have some effect. Ten years servitude is not so terrible as a servitude for life, and therefore must necessarily have a less effect in frightening young fellows from engaging in the army, which of course must render recruiting something easier and cheaper than it is at present; and instances daily occur of common soldiers, who by marriage, by the death of some relation, or by some accident, might put themselves in a way of living without hard labour, if they could get free from the army at a small expence; but the officers upon such occasions insist generally upon such a large sum of money for a soldier's discharge, that the poor fellows often chuse to spend in riot what little money thus comes to them, than to give the greatest part of it to the officer for a discharge. I was myself obliged to pay ten guineas to an officer for a man's discharge, and I have known 20 paid upon a like consideration. Now, suppose a man who has been bred a mechanic, and has served ten years in the army, marries a servant-maid who has saved 20 guineas in service, 17 or 18*l.* of this money would be sufficient in many country towns in England, to buy him the necessary tools, and to set him up as a master in his business; and if he were sure of having his discharge for 3*l.* he would employ his money in that way, and might presently become an useful and industrious, and in a few years, perhaps, a substantial tradesman; but when he must pay ten guineas at least for his discharge, he considers that the other ten would not be sufficient for setting him up in his business: what then is the consequence? He marries the wench, gets her money, spends it in riot, and in two or three years leaves her with as many children upon the parish.

I could suppose many other cases, Sir, where a soldier might at the end of the ten years service probably betake himself to some honest and industrious employment, were he sure of having his discharge for 3*l.* and in general I must observe, that if all the soldiers of our army were insured of this, it would make many of them frugal and industrious. We know, that when a soldier is not in camp or upon duty, he may every day earn something more than his pay, by some sort of business or labour; and this he would not only earn but save, in order to have it in his power to quit the army, and betake himself to some industrious employment at the expiration of his term of service in the army; but as the case now stands, they all become desperate: they may fret and pelt, but they know they can never get free; therefore they resolve to live in idleness, or if they now and then earn a little by labour, they spend it in debauchery. It is this despair that renders our common soldiers generally so idle and dissolute: open them but a view to freedom: give them a prospect, though a distant one, of their becoming once again a part of the people, and you will see a remarkable, a happy change in

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the behaviour of your army. Many of them, or surely, I may say some of them, would by leaving the army become honest, industrious tradesmen, and would be both disciplined and ready for the defence of their country against invaders, either foreign or domestic; from whence I must conclude, that even this Bill, notwithstanding the length of the term, would in some measure contribute to our security, by increasing the number of our disciplined soldiers; and if the term of service should hereafter be reduced to its old standard, as I am persuaded it would, we might probably, in a course of years, have almost every man in the kingdom a disciplined soldier; for gentlemen would then grow ashamed of being ignorant of that which every gentleman ought to know, and which every farmer in his neighbourhood was acquainted with.

But these I have mentioned, Sir, are not the only advantages we should reap by this Bill. The chief in my opinion, is, that it would render our army of much less dangerous consequence to our liberties. If our soldiers had a certain prospect of having it once more in their power to incorporate among the people, and to recover those liberties and privileges which they had lost by listing in the army, it would not be so easy to prevail with them to support a prince or minister in any project for depriving us of our liberties. They would all live in hopes of being again our partners in those liberties; and this would preserve in them a regard for those liberties which they hoped to be one day partakers of; but when they find themselves without any such hopes: when they find themselves placed by us for life under the power of dependent courts-martial, and deprived of the valuable privilege of being tried by their country before an independent tribunal, can we expect that they will have any regard for a privilege which they can never enjoy? Can we justly blame them, if they assist in depriving us of that privilege, and rendering us subject to the same sort of tribunal to which we have subjected them?

I am surprised, Sir, to hear gentlemen talk of the security we have against this fatal effect, by means of the gentlemen of family and fortune, who have commands in the army. Do not we know, that every gentleman in the army holds his command, nay, not only his command but personal liberty, at the arbitrary will of the prime minister for the time being? I say, his personal liberty; because the commander in chief may order any officer under his command into confinement, and may keep him in that confinement as long as he pleases, without bringing him to a trial; for there is nothing in the Mutiny Act for limiting the power of a commanding officer in this respect; and I believe no officer committed to the Savoy, or to any other military place of confinement, by a warrant from the commander in chief, could be set at liberty, upon bringing his Habeas Corpus, by any judge in Westminster-hall. I shall not therefore upon this occasion talk of the sovereign's power to dismiss officers from their command; because I believe a prince who had formed a scheme for enslaving us, would take care not to dismiss them; but if he were sure of the common soldiers, he would by virtue of the power he is invested with by law, confine every officer he was jealous of, and there detain him till he had perfected his scheme.

In all armies, Sir, by which the liberties of a country have been overturned, the commander found men of family and fortune, who from ambition, avarice, or revenge, were ready to support his schemes for arbitrary power: in our army we may expect the same, if ever any prince among us should form such a scheme: and he has as I have shewn, a ready way to make sure of every officer that may attempt to oppose, or refuse to obey his most illegal commands; therefore we can have no sure dependance, for the preservation of our liberties, upon our army being commanded by men of family and fortune: we can have no such dependance but upon the courage and military skill of the people in general, or upon the regard that the common soldiers have for the liberties of their country. Can we depend upon the courage and military skill of the people, if we confine military discipline to our army alone: can we expect that soldiers will have a regard for those liberties, of which they can never hope to be partakers?

I have said, Sir, that if this Bill should be passed into a law, the term of service would very probably be soon reduced to its old standard; and my reason for saying so is, because the officers themselves would soon find their advantage in giving common soldiers a prospect of freedom. I mean all such officers as do not propose to make a perquisite of granting poor fellows their discharge. As to all others, they would find recruiting grow a good deal easier; from thence they would con-

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clude, that if the term of service were shortened, recruiting would grow still more easy; and this would induce them to propose, or at least to agree to have the term of service in time of peace brought to its old standard, I mean that of three years; for if this were done, it might introduce a custom for every young fellow of spirit in the island to serve his three years in the army, and in that case recruiting would, I believe, cost nothing in time of peace: nay, should a warlike spirit prevail among the people, it might come to cost nothing even in time of war, and no man should ever be obliged to pay more for his discharge than the bounty money he received for listing.

This happy effect is not indeed to be expected, Sir, from the Bill now before us, but our passing this Bill will be a step towards it, and the widest step we can propose to make at present; for men are naturally attached to old customs, and apt to imagine fatal consequences from any alteration. Our officers have been so long accustomed to have the poor soldiers bound to them for life, that I do not wonder at their conceiving dismal apprehensions from our giving those poor fellows a glimmering of liberty; but when they have by experience found all their apprehensions void of foundation, they will more readily agree to our extending to our soldiers that freedom, which is the birth-right, and so far as is consistent with the existence of society, ought to be the constant attendant of every British subject.

Can this, Sir, be said of the soldiers of our army in their present situation? Can any man be said to be free who is bound to serve another during life? But say gentlemen, our soldiers are bound by their own contract, and a contract they have willingly and wittingly entered into. Does this alter the complexion, or lessen the hardship of slavery? Were the Roman *servi venundati* less slaves than the *Servi nati* or *bello capti*? Yet the *venundati*, or those who sold themselves, always did so willingly and freely. Besides, if we call listing in the army a contract, I will say, it is a very unequal contract, as the law stands at present; for the soldier who lists, is bound for life, but the officer who lists him, is not bound for a day: nay, he is bound to nothing, not even to pay listing money, if the soldier lists for nothing. If it be a contract, therefore, it is such a one as no law, but the law military would support: consequently, call him a slave, or what else you please, he is not made so by his contract, but by the Mutiny Act passed for that very purpose. But then, say gentlemen, our soldiers cannot be called slaves, because they are governed by laws, and can be punished only by courts of justice. In all countries, Sir, the people are governed by laws, and punishable only by courts of justice. In France it is so: in Turkey it is so: at this rate we shall make a most notable discovery, which is, that the subjects of the most despotic monarchy are as free as the people of Great Britain. I wish it may not soon happen to be so; for if this Bill be rejected, however much we may boast of our laws, our parliaments, and our courts of justice, I am afraid, we shall soon be in the same condition with the subjects of France or Turkey, though, perhaps, for some time a little more ceremony may be made use of in oppressing us.

I shall readily agree, Sir, that in the condition in which our soldiers are at present, very few will deliberately list themselves in our army. They generally list in a fit of passion or drunkenness; but from late experience we must allow, that some have listed from zeal for the service, and support of the government in time of danger; and it is but a bad recompence for the laudable zeal of such men, to pin them down to the service for life. I believe, I may likewise grant, that during the short continuance of the act at the end of queen Anne's reign, there were very few, if any soldiers, that demanded their discharge; but from what happened at that time, we can no way judge of what may happen in our present or future circumstances; for by the numbers of regiments that were at that time disbanded, and the few that were kept on foot, all kinds of labouring business was overstocked, so that no soldier could have the least encouragement to leave his regiment; and the act and privilege thereby granted, lasted so short a while, that none of the soldiers in any of the regiments kept on foot, had time to procure themselves a settlement in any mechanic or mercantile way.

Now, Sir, as to the inconveniencies apprehended from the passing of this Bill into a law, in the foreboding of which, I must say, the fancies of some gentlemen have been extremely fruitful, the first, and indeed the chief that deserves our notice, is that which relates to the public in general. They say, that such a law as this

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would fill the country with idle vagabonds; because, as it is generally idleness, or an idle disposition, that leads a man into the army, we cannot suppose, that such men would betake themselves to hard labour after being discharged. Was there ever, Sir, a more chimerical danger suggested? Can we suppose, that any man would get himself discharged from the army to starve? Do not we know, that many are drawn into the army by other motives than that of idleness? Are there not many ingenious mechanics and industrious labourers drawn in to list in the army by a fit of passion or drunkenness, by ambition, curiosity, and some, perhaps, by zeal to serve their country? Many of these would probably at the end of their term demand their discharge, and become useful as well as industrious subjects. But the idle and lazy would never desire to be discharged, unless they happened to meet with some such fortunate accident as might enable them to live without labour or industry.

Another inconvenience, Sir, or rather danger which relates to the public, is, that the Bill now before us would enable the disaffected chiefs in the Highlands of Scotland to have their whole clan bred to military discipline, by obliging them to list in our army, and to get themselves discharged as soon as their term of service expired. Now it is evident, I think, that from the Bill now before us there is not the least ground for this apprehension; because both the time of service is too long, and the price or premium to be paid for a discharge too high, for any such purpose; and if we should hereafter come to shorten the term, or lessen the premium, then it will be a proper time to consider of a method for preventing this danger; for I so far differ from a noble lord who spoke sometime since in this debate, that I think we should prevent, as much as possible, any, or at least any great number of the disaffected from listing in our army, even under its present regulation. The noble lord was pleased to say, that the listing of such a man, would be the taking of a soldier from the Pretender; but I am afraid, it would prove the breeding up of a soldier for the Pretender, and my fears are justified from what, I am told, very lately happened in the East-Indies. The government, we know, thought it would be cruel to hang up all the late rebels they got into their hands, and at the same time they judged it imprudent to let them return to their own country. For this reason they got a great many of them to list among the troops sent to the East-Indies under admiral Boscawen: what was the consequence? Soon after landing, they all to a man, if I am rightly informed, deserted into the town they were sent to besiege.

For this reason, Sir, I am against taking any man, or at least any great number of men, out of the Pretender's service into our own. I have too great a regard for our present royal family to be for employing a number of such men in any branch of our service, because I think none of them can ever be trusted. I have often heard it insinuated, that some amongst us would gladly deliver up Gibraltar, if they could do it safely: and I must observe, that by this method they may do it pretty safely. It is but filling the regiments sent thither with disaffected soldiers, and such soldiers will deliver it up for them. But as the late affair in the East-Indies has forewarned us of the danger of trusting such men, if any such misfortune should ever happen, I hope no man will be allowed to plead ignorance as an excuse. Yet still I am not absolutely against our having any recruits from those countries that are said to be disaffected; for it is impossible to prevent their serving in some service, and I should rather chuse to have them serve in our own than in any other, because it might alter their way of thinking; but I hope care will be taken never to have too many of them in any one regiment, or in any one garrison.

As to the inconveniencies which the army may be exposed to by the passing of this Bill, when the gentlemen who are against it begin to talk of them, Sir, they change the whole tenor of their discourse. Whilst they are endeavouring to convince us that the Bill can produce no good effect, they tell us that the same disposition, the same motives, that lead a man to list in the army, will prevent his ever retiring from thence, or desiring to be discharged, should you give him an opportunity to do so; but when they begin to frighten us with the bad effects the Bill will produce, this disposition, those motives, that lead men to list in the army, all vanish at once, and every soldier, it is supposed, will demand his discharge, as soon as he becomes intitled to do so. Or at least, no officer can for a day depend upon the continuance of such a man in his regiment; and this, we are told, would produce confusion in our musters, put our colonels often to the expence of double clothing, and render it



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impossible for us to send any regiment abroad, or even to change their quarters, without running the risk of losing a great many, perhaps most, of the soldiers of the regiment. Now to all this, Sir, the Bill itself furnishes us with a very short answer: a soldier must pay 3*l.* for his discharge; and I believe it will be allowed, that there are very few common soldiers who are able to do so: and when new recruits can be had at a much cheaper rate, and at a very short warning, which I am convinced would always be the case in time of peace should this Bill pass into a law, I fancy, very few officers would look upon it as a hardship, were they obliged to discharge every man in the regiment upon that condition.

Therefore, Sir, whilst the Bill stands in its present form; whilst soldiers are obliged to pay so much money, before they can be entitled to demand their discharge, all these terrors must be looked on as chimerical. Some few of the soldiers, who have been very industrious and very frugal, or who have met with some piece of very good fortune, may be in a condition to demand their discharge, and to pay the legal price for it. Such men may again become useful members of the commonwealth: for their benefit the Bill is chiefly designed, in order to prevent its being in the power of an avaricious officer to extort an extravagant sum from such a man, for his discharge from the army. And if this Bill should pass, experience may shew us, that there is no danger or inconvenience to be apprehended from lessening the price to be paid, as well as shortening the time of service; for I shall always be pretty much of the same opinion with Gideon, who relieved his countrymen from the yoke and the oppressions of the Midianites, though he gave every man leave to depart, that was not ready, willing, and resolved to risk his life in the cause of his country.

I know, Sir, that in modern times it would not be very proper for the general of an army to issue any such proclamation before his marching to fight the enemy: for though the officers might perhaps be ashamed to depart, I am afraid, many of the soldiers would leave him; but what happened at Carlisle, when the rebels were besieged there, is a proof, that a good general, even in our days, puts his greatest confidence in the volunteers of his army; for it was observed, when that town was invested by our army, the volunteers were posted in that part of the line, which was most exposed to, and where a sortie might probably be expected. And if all proper methods were used to discipline our militia, and to restore and propagate the warlike spirit of our ancestors among the people of this island in general, I believe, they might soon be made equal to any regular troops in Europe. This, I think, we ought to aim at in all our laws relating to the military; and the Bill now before us, I look upon as designed for this purpose; therefore I shall most heartily give my vote for its being passed into a law.

Colonel *Henry Conway:*

Sir; I am one, and, I believe, one of many gentlemen in the army, who approve of the general principles upon which this Bill is founded. I am persuaded, there are very few gentlemen in the army who do not wish to see military discipline and a warlike spirit propagated, and made as general as possible, among the people of this island; and I do not in the least wonder at it; for there is no set of men in the kingdom so much interested, or so immediately concerned in this event, as the gentlemen of our army, which is not, and, I hope, never will be kept up to tyrannize over the people, or to support a government that is hated by the people, but to prevent the government and the people from being suddenly surprised and subdued by an invasion of foreign enemies, or an insurrection of the few that, from a wrong bias in their education, are disaffected here at home; consequently, neither of these fatal events can ever be brought about, but by the previous utter extirpation of our army; and every man must see, that it would not be so easy to extirpate our army, when supported by a brave and warlike people, as it would be to surround and slaughter a handful of regular troops unsupported by any other man in the kingdom.

For the same reason, Sir, I believe, there is no set of men in the kingdom so desirous as the officers of our army, to have the common soldiers made as free and as easy in their circumstances, as is consistent with the nature of military discipline; because both the life and reputation of an officer depend upon the behaviour of the soldiers under his command, and the more free and easy the soldiers are in their circumstances, the more pleased they are with their situation, the more bravely, the more obstinately they will fight in defence of their country.



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For these reasons, Sir, as I have myself the honour of being an officer in our army, I think I may be easily believed when I say, that I approve of the principles upon which this Bill is founded, and most heartily wish they may be carried into practice; but I cannot approve of the methods proposed for this purpose by the Bill now under consideration, because they will, I think, tend to ruin all discipline in the army, without contributing in the least towards propagating military discipline or a warlike spirit among the rest of the people; and they will certainly load the public with a new and very heavy expence in recruiting; for the fund of the non-effectives is not now sufficient for that purpose, nor ever can, if care be taken to keep the regiments as complete as they always ought to be. Gentlemen may fancy what they please; but while our regiments are liable to be sent to Ireland, to Gibraltar or Port-Mahon, to our plantations, or to the assistance of our allies, when we are called on for our contingent in pursuance of treaties: I say, whilst our regiments are liable to these chances, and these they must always be liable to, no man in easy circumstances will list himself as a common soldier, nor will any man list as such without some reward or bounty, by way of listing money; and the reward necessary for this purpose will increase, in proportion to the demand for recruits, and to the sum a man knows he must pay for his discharge, which every common fellow would by such a law as this be apprised and put in mind of; whereas at present they generally list, without ever thinking of a discharge, or of being obliged to pay any money for obtaining it.

From hence, Sir, we have, I think, good reason to apprehend, that listing money would rise very much above the 3*l.* appointed by this Bill to be paid for a discharge; and in that case, all your regiments must always remain incomplete, or you must establish a new fund for recruiting. In this country we are upon a very different footing from what they are either in France or Holland. In France we know, that their regiments of regular troops are all recruited by draughts from their militia; and in all their cities and provinces their militia is formed by compulsion: men in such or such circumstances are forced to list in their militia; and by force they are drawn from thence into their regiments of regular troops. In that country, therefore, they may easily and without any expence keep their army complete, and yet allow every man who pleases to leave the army at the end of a certain term. But in this happy country, no man who is not a vagabond, can be forced into the army: they must be inticed to list voluntarily by bounties and rewards; therefore it is not possible for us to follow the same method, without loading the public with a greater expence than it can bear; in Holland again, a great part of their army is composed of Swiss regiments, the soldiers of which always list for a certain term, and must be discharged, if they desire it, as soon as possible after their term expires; and to keep their other troops in good humour, the States General are obliged to allow the soldiers the same privilege; but they have it so regulated, that not above such a number must leave any regiment at once, and if more than that number desire to be discharged, they must draw lots, in order thereby to determine who shall at that time have leave to go, and those that go are easily replaced either from Swisserland or the frontiers of Germany, because in those countries a poor man can hardly with the utmost industry gain a subsistence equal to that of a common soldier: whereas in this country any man with common industry may gain a subsistence superior to that of a common soldier, and consequently our recruiting must always be much more difficult and expensive.

However, Sir, if the methods now proposed would contribute towards propagating military discipline among our better sort of people, I should be for establishing a new recruiting fund, rather than not adopt a proposition that might be attended with so signal an advantage, and so great an ornament as well as security to the country; but I have already shewn, that no man in tolerable circumstances will ever enter as a common soldier into any of our regiments of regular troops; consequently, what is now proposed can never have any effect among our better sort of people, and I am not for having such an effect produced among the lower sort only; for I shall always think it dangerous to have the mob only disciplined, because they might probably take it into their heads to join an insurrection of the disaffected, in order to become the masters, instead of being the servants of the commonwealth. I should therefore, Sir, be extremely glad to see a militia properly established, and all men of worth bred to

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arms, and properly regimented. In that case we might now in time of war, as well as in former times, see a great many of the officers of our militia, appearing as volunteers in our regular armies, and encouraging the soldiers of our regular regiments by their example; but we can never expect that gentlemen, or the sons of substantial farmers or tradesmen, will list for any term as common soldiers in any of our regiments of regular troops. Nor can we ever expect to have a militia fit for any service, unless it be recommended by gentlemen of fortune and martial character, and composed of house-keepers or the sons of house-keepers, and not of those low, indigent fellows, that are now picked up and hired for the purpose.

I therefore think it evident, Sir, that the regulation proposed by this Bill will no way contribute towards propagating military discipline among our better sort of people, and yet at the same time it will, I think, ruin the discipline of our army. A soldier who had served his ten years, and had by some means or other got his 3*l.* ready to pay for his discharge when he wanted it, would grow so lazy or so saucy, that there would be no bearing him, especially if he knew that his captain could not get another man in his stead for that money; and like an unruly horse in a troop, a saucy, impertinent fellow is enough to spoil a whole company. Such fellows would be continually stirring up mutinies among the other soldiers; and if they found themselves in danger of being brought before a court-martial, they would immediately demand and insist upon being discharged, after which they could not be tried or punished by a court-martial for the mutinous practices they had been guilty of. This, Sir, would be the case of those soldiers who had got their 3*l.* ready to pay for their discharge; and what do we think, would be the case of those soldiers who had served their time, and wanted to be discharged, but had not their 3*l.* ready to pay for it? Why, Sir, they would rob or steal, in order to get money for that purpose: some of them would certainly do so; and thus the law you provide for their relief, would prove a trap for bringing many of those poor fellows to the gallows.

Thus, Sir, the law proposed would certainly produce some bad effects, and could not produce any one good one; nor is such a law at present wanted: our common soldiers are generally well enough pleased with their condition, and will, I believe, continue to be so, if you do not render them otherwise by proposing laws for their relief, in cases where they do not want any. I cannot pretend to much experience; but from all the experience I have had, and from my conversation with those who have had a great deal more, soldiers who are bound for life seem to be better pleased with their condition than those that are bound only for a term of years. This was manifest in the late war; for there was less desertion among the British and Hanoverian troops, than among the Dutch, the Swiss, or any other troops of the confederate army; therefore I wish that gentlemen who do not belong to the army, would apply their thoughts towards forming a well disciplined useful militia, rather than towards regulating our army; and that they may hereafter do so, I shall be for putting a negative upon the present question.

General *Oglethorpe*:

Sir; I wish the gentlemen of the army had given a little of their assistance in the framing of this Bill, and had attended the committee for that purpose. I am far from approving of the Bill as it now stands, though I shall be for its being passed into a law, if it were for no other reason but to oblige those gentlemen to bring in a right one; for I think it is hard to tie a poor man down for life to serve as a common soldier in the army, and very few who list as such can ever expect to be higher; nor do I think, that our giving them a right to demand their discharge, would ever be the cause of any mutinous behaviour, or much increase the expence of recruiting; and if it should add a little to the expence of recruiting, the public ought not to grudge that expence: nay, I think, the public ought to be at the whole expence of recruiting, and that a fund should be established for that service: at least, no regiment ought to be kept for any time incomplete, in order to save money by the non-effectives for recruiting the regiment: the necessary savings that way ought first, without doubt, to be applied to the recruiting service; but upon every occasion the whole number of recruits wanted, ought to be raised as soon as possible, and if the savings be not sufficient for that end, the deficiency ought to be supplied by the public, and brought in the next session as a service incurred and not provided for by parliament.

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This therefore, Sir, can be no objection to the Bill now before us; but I have an objection which has not yet been mentioned, and that is, its making the condition of a soldier better in time of peace than it is in time of war, which is directly contrary to what we ought in my opinion, to aim at; for we ought to endeavour to make our soldiers wish for war, and to wish for going abroad rather than staying at home. The French do so; and for this reason, their regulation with respect to the time of a soldier's serving in the army, is the same in time of war, as it is in time of peace; and it is the same in their plantations as it is at home. Of this they have already experienced the advantage in their plantations, especially their sugar islands, and we shall experience it to our cost; if ever they should become powerful enough at sea to carry on a war with us in that part of the world; for they have now in proportion a much greater number of whites in their sugar islands than we have in ours; and we may know from late experience, how destructive it would be for us to support a war in the West-Indies, by troops sent directly from this kingdom.

Whatever we may do therefore, Sir, with respect to the time of war, I think we should extend the privilege granted to soldiers by this Bill, to all the troops that are now in any of our plantations or colonies, or that may hereafter be sent thither; and whatever we may do at home, we should make the term much shorter with respect to all regiments or independent companies in that part of the world; for great numbers of our soldiers sent thither would, I am persuaded, demand their discharge as soon as their time expired, especially if they were to have it for little or nothing, and would settle as servants or tradesmen in that part of the world. By this means we might in a short time very much increase the number of white inhabitants in all our sugar colonies; and we have the more reason to begin this as soon as possible, as we know that the French are now restoring and increasing their marine with all possible vigour and dispatch. The last war has made them sensible how absolutely necessary it is for them to have a respectable naval force for the support and protection of their commerce and colonies, and therefore in the next war we have with that nation, we may probably find them appearing again at sea, with a fleet of above 70 line of battle ships, besides frigates, as they did in 1690, when they beat the combined fleets of England and Holland off Beachy-head; for by the increase of their commerce and colonies, they have now a much greater number of seamen than they had in those days; and they may next war have Spain of their side, as it was in the last, whereas in 1690, it was engaged with us against them.

We should likewise consider, Sir, that in case of a new war with France, if our militia remain in its present state, we shall be obliged to keep a very powerful squadron at home, for preventing an invasion, and another in the Mediterranean, for protecting Gibraltar and Port-Mahon, by which means France may become superior to us, and may for some months continue so, in the seas of America; we should therefore take all possible methods for augmenting the number of white men in all our plantations, especially our sugar islands, that in case of any such event, they may be in a condition to defend themselves, till we can recover a superiority in those seas by sending a fresh squadron thither; for the seasonable arrival of our American troops at Jamaica in September, 1740, together with the storm which the French squadron met with in sailing from Martinique to Hispaniola, was perhaps what saved Jamaica at that time. We must all remember, that the French and Spaniards were then for some months superior to us in those seas; and though they were, by the accidents I have mentioned, prevented from attempting any thing, yet from the manifesto the French published, and the preparations they made at Martinique, it is highly probable, that their admiral had instructions to join as auxiliaries to the Spaniards in the conquest of Jamaica.

From hence, Sir, as well as from the nature of things, we should be induced to take every method in our power for adding to the number of white men in our sugar colonies; and nothing can contribute more to this salutary end, than that of giving all our soldiers sent to that part of the world, a right to have their discharge after a few years service, and without any consideration. This, I know, is not to be done by the Bill now before us, but the passing of this Bill will, I think, be a step towards it; and for this reason, as well as several others, the question shall have my concurrence.

The House then divided: Ayes 92; Noes 154. So the Bill was lost.

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*Proceedings respecting the Westminster Election.**] February 22. Mr. Henry Fox stood up, and took notice, that no return had yet been made of the writ for electing a citizen to serve in parliament for the city of Westminster, in the room of the lord Trentham, though the said writ had been ordered on the 16th of November then last, to be made out. Whereupon the order for Mr. Speaker's issuing his warrant for that purpose was read; and then the said gentleman moved, that the clerk of the crown, the messenger extraordinary attending the great seal, the under sheriff of the county of Middlesex, and the high bailiff of Westminster, should attend next morning, to give an account of the issuing, delivering and executing the said writ: accordingly they all attended next morning; and as it was suspected, that a motion was to be made, to order a return, without waiting for the issue of the scrutiny then carrying on, the House and lobby were crowded with the electors of Westminster; but after the several officers above-mentioned had been examined, and the high bailiff had informed the House, that he was carrying on the scrutiny with all possible dispatch, no such motion was attempted, only Mr. Speaker (by direction of the House) recommended to the high bailiff some particulars of his duty, and acquainted him, that if he met with any thing to obstruct him therein, which he could not prevent, he should apply to the House upon it, and might be assured of the support of the House in the discharge of his duty; and that the House expected he would take care, in general, to expedite the election as much as possible. Whereupon the high bailiff expressed his great readiness to conform himself to the direction of the House; and said that he would use his best endeavours to expedite the election, and hoped to perform his duty in general, to the satisfaction of the House.

* "During the whole of this session, the city of Westminster, and indeed the public in general, were in a dreadful consternation on account of the election for that city. Lord Trentham, eldest son to earl Gower, its representative, had been made a lord of the admiralty, by which his election became vacant; but having declared himself again a candidate, he met with a powerful opponent in the person of sir George Vandeput, a private gentleman, who was vigorously supported by the interest of the prince of Wales, and all those electors who went under the name of Independents. An incident happened at that very time which, were it not for the great consequences it had, would be too inconsiderable for history to relate. Some French players having got liberty to act on a theatre in the Haymarket, were pelted by the generality of the audience; but some young noblemen and gentlemen being incautious enough to draw their swords and take their parts, it was affirmed in print, and even certified by affidavits, that lord Trentham was of the number, and that he drew his sword upon the audience. Though the whole of this allegation was an infamous falshood, and was afterwards proved to be such, yet it is incredible how strongly it operated to lord Trentham's prejudice in the election, which continued for an unusual number of days. But his lordship having a majority upon the poll, the other candidate demanded a scrutiny, which was granted by the high bailiff, the returning officer. This, when the voters on each side were between 4 and 5,000, proved a matter of great difficulty, and was carried on by both sides with such animosity, that though the election begun on the 22nd of November, the high bailiff had made no return of the writ on the 22nd of February, as it was notorious that he met with vast obstructions in the exercise of his office. Mr. Fox, on that day, moved the House, that the clerk of the crown, the messenger extraordinary attending the great seal, the under sheriff of the county of Middlesex, and the high bailiff of Westminster, should attend next morning, to give an account of the issuing, delivering, and executing the writ. Had it not been for the prudence of Mr. Pelham, and some moderate members, a very violent resolution would have been moved for on this occasion. But the high bailiff assuring the House he was making all the dispatch in his power, and would continue to do so, he was dismissed from the bar, after receiving a proper admonition from the Speaker, and being enjoined to apply to the House, if he met with any obstruction. This affair, next session, made a great noise." Tindal.

*Debate in the Lords on the British Fishery Bill.**] April 4. Their lordships being in a committee on the Bill for the Encouragement of the British White-Herring Fishery,†

* From the London Magazine.

† "During this session, the affair of the British fishery was resumed. The reader has already seen how the Bill for encouraging it was dropt in the last session, and mention has been made of the vast spirit and expectation raised in the nation upon that head. Numberless were the pamphlets and papers published during the interval, as well as session, of parliament, concerning its importance. But some facts were now laid before the parliament, which exasperated the public more than ever against the Dutch. For the corporation of Southwold,

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The Earl of *Winchilsea* rose and said:

My lords; it is very surprising, that of all the Bills sent up to us of late years from the other House for amending the law, improving trade, or removing any grievance publicly complained of, most of them were such as were apparently ineffectual for the end proposed, or such as tended to introduce a greater grievance than that they intended to remove. Such were their Bills against the use of spirituous liquors, their Bills against vagabonds, and many others I could mention. In short, I can think but of one Bill that has fully answered what was expected from it, which was that brought in by a worthy magistrate of the city of London against stock-jobbing; and every one knows what opposition he met with within doors, what reproaches without, before he could get that Bill passed into a law. It is true, my lords, we have, through complaisance, or to satisfy a silly popular clamour, given our consent to several such Bills; but I hope we shall at last put an end to this complaisance; for I do not think there was ever a more ridiculous Bill sent up to us, than the Bill now under consideration.

There is no man, my lords, that more heartily wishes the improvement of the British fishery than I do: there is no man more sensible of the benefits that might accrue to this nation by extending our fisheries, especially that of white herrings, upon the coasts of our own island; and there is no man more sorry than I am, that proper expedients have not been

and the inhabitants of Lowestoff, both in Suffolk, and both places subsisting by the fishing trade, informed the House by petition, that the Dutch had, for about eight years past, fished so near the shore, that their nets swept upon the ground, and thereby prevented the petitioners from fishing, as a hundred Dutch fishing vessels at a time have been anchoring in their bay in two or three fathom water; and that when the petitioners complained of their foul fishing, they threatened to run over and sink their boats, or tear their nets. The petition from Lowestoff had the same complaints, but against the French as well as the Dutch. Though the minister had always declared himself, and was, in fact, a sincere friend to the fishery, yet he easily saw that the intention of bringing those petitions into the House, was to exasperate the public further against the Dutch; and he complained of the indecency of bringing such a matter to parliament, before it was laid before the king in council, which was the proper tribunal where they could obtain redress. But he owned at the same time, that, had it been refused there, the petitioners might properly have applied to parliament. Notwithstanding this, the Petitions were referred to a committee; but they did not think proper to take them into their consideration. The committee, however, on the 14th of February, came to the following Resolutions, which next day were reported by general Oglethorpe, and agreed to by the House; viz. "That the carrying on the British white herring and cod fisheries, would be of great advantage to the trade and navigation of these kingdoms, and that all impediments to the same ought to be removed as much as possible. That as a further encouragement to all persons whatsoever, as well bodies politic and corporate as others, to engage in the white herring and cod fisheries, a bounty of 30*s.* per ton should be granted, and paid out of the customs, to all new vessels from 20 to 28 tons burthen, which should be built for that purpose, and actually employed in the said fishery. That for encouraging adventurers to employ their money in the said fisheries, a society should be incorporated, under the name of, The free British Fishery, by a charter, not exclusive, with power to raise a capital not exceeding 500,000*l.* and that 3*l.* 10*s.* per cent. per annum should be granted and paid out of the customs to the proprietors for 14 years, for so much of the capital as should be actually employed in the said fisheries."

"Upon those Resolutions, a Bill was presented by general Oglethorpe, by order of the House, for the encouragement of the British herring and cod fisheries, which after surmounting some difficulties on account of a literal omission, the Bill, when it was sent up to the Lords, received the royal assent the same session. It is incredible with what ardour the news of this Bill passing, was received by the public. It had been patronized and promoted by men of the greatest property and popularity in the kingdom; and admiral Vernon, who at this time professed himself to be an enemy to the Dutch, made a voyage to Holland on purpose to make himself master of the manner of their carrying on the fisheries, and curing their fish. The Bill was no sooner passed, than there was a general meeting of the persons named in the Act of Parliament for encouraging the British white herring fishery, pursuant to an order of the lords of the regency, the king being then abroad. At this meeting the prince of Wales was chosen governor, Slingsby Bethell, esq. president, and Stephen Theodore Janssen, esq. vice-president, both of them aldermen of London. Thirty gentlemen, most of them members of parliament, at the same time were chosen as the council, and were approved of by the lords of the regency, to whom their names were presented in terms of the act of parliament. The charter for establishing them into a society being past, the prince of Wales was presented with it at Fishmonger's Hall, to which he went in great state, and accepted of by him as their governor." Tindal.

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found, for turning to the best advantage, the spirit that at present prevails among the people for the improvement, or rather, I should say, the introduction of that fishery. I am from information, as well as study, fully apprised of the riches that might accrue to this nation from a due improvement of that fishery, of the numbers of poor people that might thereby be usefully employed, and above all, of the vast addition that might thereby be made to the number of our seamen, which is the natural strength and the true glory of this kingdom; therefore, I cannot but desire above all things to see this trade put upon a proper foundation; and for this very reason I must be against the Bill now under consideration; because, from such regulations, I am sure we can meet with no success, and a failure in the attempt will throw such a damp upon the present laudable spirit, that it will not for many years be possible to revive it.

My lords, did we ever hear, did we ever read of a company, that carried on a trade with any success, unless it was to a place where none could trade but themselves? Do not we know, that in order to enable a company with a joint stock to carry on any trade, they must not only have an exclusive privilege with regard to their own countrymen, but it must be to such a place, or a trade of such a nature, that they cannot possibly be rivalled by any foreigners? Is not the Bill we but the other day agreed to, for extending and improving the trade to Africa, a melancholy proof of this truth? No trade had ever stronger arguments in favour of a company with a joint stock, than that trade had at the beginning: it was to be carried on upon a savage coast, where it was impossible to trade with any security for your merchants and factors, without having forts for their protection against the natives. The friendship of the natives was to be purchased by presents to their little princes, and yet that friendship, after you had purchased it, could not for a day be depended on, unless you had a fort for a security against their perfidy. Such a trade, therefore, could not be opened without a much greater expence than the profits of the trade could answer in a great number of years: consequently, this expence must be defrayed by the public, or a company with a joint stock and exclusive privilege must be erected. As the government had not at that time millions yearly at its disposal, as it has had since, it could not spare the expence, and therefore it was absolutely necessary, for the opening of that trade, to erect a company with a joint stock and exclusive privilege. Whilst that company was unrivalled, or but very little rivalled by foreigners, they carried on the trade with advantage; but as soon as they came to be rivalled by the private traders of other nations, we saw that we must either lose the trade, or lay it open to our own people, and this put an end to the trade of the company; for their present circumstances shew, that they have never since carried on the trade with any advantage.

My lords, our East-India Company owed its establishment to the same causes, and will, at last, I fear, have the same fate with our African Company; for its trade will be at an end as soon as it begins to be rivalled by the private traders of other nations; but thank God! our neighbours have all hitherto carried on that trade by companies as we do. And as to the South-Sea Company, they have never so much as once endeavoured to establish a trade in that which is properly called the South-Sea, and now, I believe, will never more have any trade in any sea whatever. But lest it should be objected, that these were all exclusive companies, I shall make some observations upon our Turkey Company. This Company was from the beginning designed to be a free and open company: that is to say, every man was to have leave to trade to Turkey, who could make himself free of the Company by the payment of a small sum, I think 5*l*. But the Company were enabled to make by-laws, and every man free of the Company was to be subject to these by-laws. What was the consequence? Some cunning fellows among the directors contrived a by-law, by which they excluded every man from the Turkey trade but themselves and their friends.* By this means they engrossed the trade to themselves, and sold all English goods in Turkey at such a high price, that the French were enabled to rival us, and at last run away with the greatest part of the trade.

My lords, in this country, we should be more cautious of erecting trading companies, than in countries where their government is arbitrary. Merchants, in all countries, are but too generally selfish and cunning: they will endeavour to enrich them-

* For a Debate on the Turkey Trade, see vol. 13, p. 895.



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selves often by such methods as tend to the ruin of their country; and by erecting them into companies you furnish them with the means of exercising their talents in this way. When such attempts are made in arbitrary countries, the ministers may easily and speedily put a stop to it, and punish severely the authors, in an arbitrary, short, and summary way; but here you must proceed according to the forms of law; and it is so easy to evade any law that can be made for preventing such practices, that it is impossible to convict them, especially as they are to be tried by lawyers, who seldom, I believe, understand any thing of trade. We had a strong instance of this in the Turkey Company I have mentioned; for though the affair was about four or five years ago brought before parliament, and though the pernicious consequences of the by-law they had made, were set in the clearest light, yet not only the authors of it escaped without punishment, but the by-law itself was left in its full force; whereas had our government been arbitrary, and our ministers careful of their duty, the by-law would have been by the supreme authority abolished as soon as made, and the chief promoter of it hanged, for attempting such an injury to the trade of his country.

My lords, we may hence see the reason, why trading companies prosper much better, and are of more advantage to their country, in France than in England. Even in Holland they have generally been conducted with much more public spirit, and a greater regard to the good of the commonwealth in general, than ever they were in England. We may be convinced of this, by comparing the conduct of the East India Company in Holland, with that of our East India and African companies. In the infancy of both these trades, the undertakers made vast profits in both countries; but the application of those profits was very different: the directors of the Dutch East India company applied a great share of those profits in planting colonies and ingrossing the spice islands; by which they have secured a lasting revenue to their successors, and extensive dominions to their country: whereas the directors of our East India and African companies applied their whole profits yearly towards increasing their dividends, in order to raise the price of their stock, by which indeed they enriched themselves and the then proprietors, but they procured no solid lasting advantage to their successors, nor any useful dominion to their country; and the late fate of Madras is a melancholy proof, how precarious their little possessions are in that part of the world.

My lords, these things I thought necessary to premise, concerning the conduct and fate of trading companies in this country, in order to shew, that we should never erect any such without an absolute necessity; but what is the necessity of erecting the company now under consideration? For carrying on the fishery we have no occasion for erecting any forts, or for purchasing the friendship of any foreign princes: we have no occasion for being at any expence, but what with frugal management may be reimbursed by two or three successful voyages; and the fitting out a herring buss is so small an expence, that any common merchant may by himself alone undertake it. When I talk of frugal management, I must observe, that it is by this alone, and by selling at a small profit, that the Dutch have hitherto prevented our interfering with them in the trade, and now we are going to grasp at a share of the trade, by carrying it on in the most expensive way that can be thought of. This really appears so ridiculous, that I am ashamed of it, and yet it is certainly the case; for a company can never carry on any trade at so cheap a rate as private men may do, and London is the most inconvenient port in the kingdom, that herring busses can be sent from, or fitted out at; because it is more distant from the proper places for fishing than any port in Holland, and the voyage more tedious and more dangerous; and the building and fitting up of busses at London will be more expensive than at any other port in the kingdom, because the wages of workmen are much higher than any where else. For these reasons, I think it is almost a demonstration, that whatever may be expected from the chambers at the other ports of the kingdom, the company at London can never carry on the trade with success, because they will always be undersold by the Dutch, if not by the chambers at other ports.

Then, my lords, as to the chambers, if any such be set up in the north of Scotland, they may, by means of the premiums allowed them, come in for a share of the trade with the Dutch; but why should you put those premiums, or at least, the 3*l.* per cent. under the management of a company at London? Or why should you confine

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the 3*l.* per cent. to the company and the chambers? Why, should not every private man, who will risk 500 or 1,000*l.* in this trade, have the same encouragement, so as the whole does not exceed 500,000*l.* that the public may be certain what sum it has to pay yearly upon this account? If this had been done, I am persuaded that many private men would have engaged in the trade, and would have gone to settle at, and fit out busses from, the northern ports of Scotland; where, by being near the proper places for fishing, they might have carried it on at a much less expence than it is possible for the Dutch to do; but 10,000*l.* is too large a sum for most men to invest in such a new and precarious trade, and most men like to have the whole management of what money they employ in trade, nor will any man living in the north of Scotland chuse to have the accounts of his outset under the inspection of the society of London. Therefore I am much afraid, that this London company will be like the dog in the manger: they can neither carry on the trade themselves, nor will they allow others to carry it on; and I am sure, the company can be of no service to the government, with respect to the discovery or prevention of frauds.

I cannot therefore see, my lords, what occasion we had for a company: I am sure, it will be a cramp upon the trade, rather than of any advantage to it; and it is so evident, that the company must lose by their trade, if they carry on any, that few men will engage in it with that view. I am therefore afraid, that there is some stock-jobbing scheme, or some such fraudulent scheme in the view of some of those concerned; and if this should at last appear to be the case, or if the company should honestly and fairly engage in the trade, and in a few years exhaust their capital, as they will probably do, it will be such a discouragement as will, for many years, prevent others from engaging in it.

For this reason, I think we should reject the Bill now before us, since it is such a one as cannot be amended; and because we cannot propose to have another Bill brought in and passed this session, we should address his majesty to order the board of trade to prepare such a scheme against next session, as they may think will be effectual for promoting the white herring fishery, and other fisheries, upon the coasts of Britain and Ireland.

Earl *Granville*:

My lords; I was glad to hear the noble lord who spoke last, declare himself so sensible of the benefits that might accrue to this nation, from the fisheries that might be carried on upon our own coasts; and indeed they are so conspicuous, that it is impossible for any man that will open his eyes not to see them; yet, evident as they are, we must be convinced by experience, that the trade will never be set on foot by private adventurers, and considering its present situation, we may easily discover the reason why it will never be so. If the white herring fishery were now in its infancy: if no other nation were now in possession of it, I shall grant, that it might be set on foot by private adventurers, to their own great emolument, as well as that of their country; but as the Dutch are, and have been for many years in possession of this trade, they are able, and certainly will endeavour to ruin any private adventurer, by underselling him at every foreign market.

Besides, my lords, there is a particular circumstance in this trade, which will always enable the Dutch to undersell our private adventurers; for the chief profit of this trade lies in the first sales that are made, in every place where there is any sort of market for this commodity. Herrings, like all other things, are sold at an extravagant price, when they come first in season; and those who come first to market will always get such an excessive profit upon their first cargoes, that they may afterwards supply the market for little or no profit: if a man gets 100*l.* profit upon the first 100 pounds worth of herrings which he sends to market, he may sell 1,900 pounds worth of herrings at prime cost, because the profit of his first sale gives him 5*l.* per cent. for his money, which is as much, I believe, as any man, especially a Dutchman, can expect for the money he employs in the herring fishery.

Now, my lords, let us consider, that the Dutch send out yearly 800 or 1,000 ships for the herring fishery: this fleet consists mostly of fishing vessels, called busses; but then every certain number of busses has a runner, or swift-sailing vessel, to attend them, which last they call yaggers, and the first barrel of herrings caught by every buss in the fleet is put on board one or more of these yaggers, or runners, who sail away directly, as soon as loaded, to Holland, where the first her-



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rings are sold generally for 20*d.* a-piece; and if more of these yaggers come in than are necessary for supplying the first demand, they sail away directly to some foreign market. This, I say, is their method at present, but if they found themselves in danger of being rivalled by us in this trade, I make not the least doubt, but that they would order their yaggers to sail away directly from the fleet without touching in Holland, in order to get the first of the market at every place where herrings can be sold.

These yaggers, my lords, attend the fleet from June 24, when they begin fishing, to July 15, by which time they must be all dispatched, for they are forbid to take any herrings on board after that day; because all carried away by them are slightly cured, and designed for present consumption, whereas those taken after that day, are all cured, and stowed in the hold of the buss, which upon her return carries them to Holland, where they are visited and repacked for winter keeping, and sold at home, or sent to foreign markets according to the demand.

From this account, my lords, of the Dutch method of carrying on this fishery, you must see, that it will always be impossible for us, to catch the first market, which is the chief profit, in any part of Europe, unless we can fit out such a number of busses or fishing vessels, as will by concert load two or three runners the first night or two of the fishing; and no such concert can be expected from private and separate adventurers, especially when the trade is first set on foot: for which reason, I think a company is at the beginning absolutely necessary. I shall grant, that companies seldom do carry on any trade at so little expence as it may be carried on by private men; but I can see no reason for believing the thing impossible. On the contrary, I am of opinion, that if the directors of a company had honesty, diligence, and public spirit enough, they might carry on the company's trade at a less expence than private merchants can do, especially if the company has a great stock employed in trade; because private merchants must have their clerks and book-keepers at home, and their factors abroad, as well as a company, and in proportion to their stock they must have a greater number than is necessary for a company, because every separate merchant must keep separate books, whereas, one set of books is sufficient for the company, let their stock be never so considerable. Besides, every separate merchant must support his family by his trade, and that support ought to be considered as a part of the expence attending the trade; whereas the directors of a company are never supposed to support their families by the salaries they have from the company, supposing them to have salaries, which all directors have not; and in the present case it is not proposed that they should have any.

But, my lords, taking it for granted, that no company can possibly carry on any trade at so small an expence as it may be carried on by private men, yet experience has shewn, that for setting up a new and unknown trade, a company has in some cases been absolutely necessary; and when the setting up of a trade required a very great first expence, which no immediate returns could answer, an exclusive privilege for a term of years was reasonable and indispensable. Such a trade is like an improvable farm, which requires an immediate advance of a sum of money for the improvement. Let that improvement be never so certain, no farmer will lay out the sum requisite, unless you grant him a long lease, that is to say, an exclusive privilege to enjoy that farm for such a term of years, as may bring him an advantage proportionable to the sum of money he is obliged to lay out upon the improvement.

This of granting a long lease, or exclusive privilege, is always necessary in countries that are to be new planted, and in trades that are to be newly set up it is often as necessary; and when the preservation of such a trade requires an extraordinary annual expence, this exclusive privilege must be continued, or the company must be undone, not because they are at a greater expence in carrying on the trade than private men are, but because they alone support that expence, which others are allowed to reap the benefit of. It was this chiefly that ruined our African Company; for other nations supported their forts and settlements upon that coast at the public expence, whilst we left the whole upon the company, even for many years after we had taken their exclusive privilege from them; and though I shall not pretend to justify their management, yet in such circumstances it was impossible for them to avoid being undone.

The present melancholy condition of our African Company is therefore no argu-

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ment, my lords, against our establishing any new company even with an exclusive privilege, and much less a company where no such privilege is so much as desired or intended; and as the society are to lay their accounts yearly before parliament, they will of course be continually under the inspection of parliament; consequently, if they should, either by a by-law, or by any other means, attempt a monopoly, or to obstruct the separate traders in their several chambers, a remedy would certainly be applied the very next session. Then, my lords, as to there being any stock jobbing design in this project, if there ever was any such, or if any one concerned ever had such a design, it is sufficiently guarded against by that clause in the Bill now before us, which prevents the transfer of any part of their stock for five years from the date of their charter; consequently we must suppose, that every man who does subscribe is resolved to rest satisfied with the annual profit which he expects from the trade, or that he subscribes with the generous view of risking so much money, for the sake of setting up a trade that may be of infinite advantage to his country. I say of infinite advantage; for though the private undertakers can expect no great profit, yet the kingdom in general will reap a vast profit, because the whole produce of all the fish sold in foreign markets will be clear profit to the nation, deducting only what we pay for the rough materials made use of in building the ships and making the nets; and most of these we may already have from our northern colonies in America.

I may, perhaps, my lords, be a little too sanguine in my hopes, but I do hope, that in a few years our fisheries upon our own coasts, at home and in America, will be a greater advantage to this kingdom, than the mines of Mexico and Peru ever were to the kingdom of Spain; and my hopes are founded upon the experience I have had of the goodness of our home-cured herrings, and the great increase of the consumption which may by custom and example be produced. Notwithstanding the prevailing opinion, which has been industriously propagated by the Dutch and their agents, that the Dutch herrings are better, and more fit for long keeping, than those cured in Scotland, I know the contrary: when I was at Stockholm, I had an opportunity to make the experiment. I had the best of both that could be got for money or favour, and I found that the Scottish herrings were by much the best for winter keeping; and I have since had here in England, an opportunity to try which were best in their kind: I had a good many years ago a present of some Scottish herrings sent me by the late earl of Eglintoun. Upon trial every gentleman agreed that they were most exquisite both for taste and flavour, and far exceeding any Dutch herrings they had ever tasted; yet they were despised by the country people; even my own servants could hardly be induced to taste them: so far does custom and fashion prevail, even as to what we eat and drink; but if herrings should once come to be frequently served up at the tables of the great, they would soon come to be coveted by the poor, and would be as cheap and as wholesome a food as any they now use; by which means the consumption might be vastly increased even here at home; and if small quantities of the best sort were sent to our ministers at foreign courts, and to our merchants or factors who reside in foreign countries, a very great addition might be made to their consumption in every country of Europe; and as the fishing lies wholly upon our own coast, we might in a little time be able to undersell, and thereby exclude every one of our neighbours from any share in this trade.

I shall grant, my lords, that the northern ports lie more convenient for this trade than the port of London, and that public companies seldom do carry on any trade at so small an expence as the same may be carried on by private men; but as a great number of busses must be fitted out at once, in order to be able to send running ships with the first catched herrings to some of the foreign markets at least as soon as the Dutch, a greater capital must be employed than any private man or company can advance; and as at the first setting up the trade, no profit can for some years be expected, because the expence must be much greater than there will afterwards be any occasion for, therefore we cannot suppose, that any private man or company will at first engage in setting it up: for these reasons, a public company, with a large capital, must at first be erected, and London is the only place where such a company can be established. By erecting such a company at London, we may expect that numbers of rich men will subscribe large sums, without desiring any profit by the trade, because they will satisfy themselves with the annuity allowed

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by the government; and when numbers of seamen, fishermen, and other sorts of tradesmen, have by the company been bred up to this trade, and the company have running ships enough, ready to take on board and carry to a foreign market, the fish catched not only by their own busses, but by those of private adventurers, private men may then engage in the trade with a probable view of advantage; and when numbers of them have engaged, I do believe, the trade of the company, so far as relates to herrings for winter keeping, will be confined chiefly to that of supplying the London markets.

But, my lords, to conclude, is it possible to suppose, that a public company, with a large capital, and under the annual inspection of parliament, can any way obstruct this trade, or discourage private men from engaging in it? They can have the 3 per cent. only upon the sums employed in the trade: they can have the 30*s.* per ton only upon the ships employed in the trade; and if they should sell so cheap as to prevent any of our own people engaging in it, they will of course in a few years gain a great part of the trade from the Dutch. Supposing they should thus by selling so cheap, or by being at a greater expence than necessary, at last exhaust their capital, they, it is true, will be losers, but the nation will be a great gainer; and before this event can happen, such numbers of people will under them be bred up to and made expert in the trade, that upon their laying it down, private men amongst ourselves would take it up, and might probably carry it on to their own great advantage as well as that of the nation. Therefore, if this Bill may possibly be attended with great benefit to the nation, and cannot possibly be attended with any bad consequence, can there be any good reason assigned for not passing it into a law?

Lord *Sandys*:

My lords; if none but rich men were to subscribe, and such as could spare to lose what they subscribe into the capital stock of the society, which you are by this Bill to establish, I should be very indifferent about your passing or not passing it into a law, and consequently should have given you no trouble upon this occasion; but I look upon this society as a new trap for drawing poor people in to ruin themselves, by subscribing all they have into this fund, in order to increase their yearly income, in which I foresee, they will be so much disappointed, that without ever receiving any yearly income, they will in a few years find themselves stripped of their capital. I am far from supposing, that any of the gentlemen who were the promoters of this Bill in the other House, consider it in this light; but this is the light in which I view it, and I dread to see, perhaps, in ten or a dozen years hence, the avenues to parliament crowded with widows and orphans that have been undone by a project set on foot by act of parliament.

My lords; the famous South-Sea scheme, the Charitable Corporation, and the African Company, which has been so lately under our consideration, should make us extremely cautious of giving the sanction of an act of parliament to any project, unless we are morally certain that it cannot fail of success: whereas, with respect to the project now before us, I think I am morally certain, that it cannot meet with success. By a company trading with a joint stock, no trade can be carried on with success, but such a one wherein great profits may be made, and consequently such a one as does not require the strictest economy. But the herring fishery is a trade, in which even the Dutch, who are in possession of it, can make but a very small profit, and by which the adventurers could make no profit at all, if it were not managed with the greatest honesty and the strictest economy.

My lords, it is true, the Dutch have a company for the government of their herring fishery; but that company never had any joint stock, nor did they ever carry on any trade upon their own account: they were established only for preserving the credit of the commodity, and inspecting the conduct of all those concerned in the trade; for in Holland no man is allowed to go with his ship upon the fishing trade, until he has got what they call an act of consent from the magistrates of the port he sails from, signed by their secretary, and the seal of the company affixed; so that the conduct of every master is under the controul of the magistrates as well as the company; and if there be an objection to his former conduct, he can obtain no such act of consent. The herring fishery in Holland is not, therefore, carried on by any company with a joint stock, but every ship, both busses and vent-yaggers, or fishing and running ships, trades upon its own separate account; and in many of them there are a great number of persons con-

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cerned; for when a man cannot build and fit out a buss or vent-yagger upon his own single account, he collects money for that purpose among his friends, and allows every one a share in proportion to the sum he advances, by which means every seaman on board has often a share: nay, I have been told, that there is hardly a servant, male or female, in their fishing towns, but what has a share in some one or other of their herring ships; and the master once a year accounts fairly and honestly, and pays to every one a proportionable share of the profits; for if he does not manage with the utmost frugality, or if he attempts to make up a false account, he can never more obtain an act of consent, or be employed as a master in the herring fishery.

By this method we may see, my lords, that the utmost care, industry, and economy must be made use of by every one concerned in the Dutch herring fishery; and with all this, as the interest of money is very low in Holland, I am told, that if the adventurers can get but 4 or 5*l.* per cent. for their money, they are highly satisfied. Is it, then, possible to suppose, that an English company trading with a joint stock, and employing both masters and seamen who have no share in the adventure, can contend with, much less supplant, the Dutch in this trade? for as to the 3*l.* per cent. they are to receive from the government, it is in lieu of the duties upon the salt with which they cure their fish; because, upon the first cargoes of fish they export, or rather carry to a foreign market, they can neither entitle themselves to an exemption from the duties payable upon the salt employed in curing their fish, nor to the bounties payable upon their exportation, because if they bring them into any British port for that purpose, they will be too late for the first of any foreign market, and thereby lose the chief profit of the herring trade.

My lords; for explaining what I have said, I must observe, that there was formerly a drawback allowed upon fish exported, in lieu of the duties paid upon the salt wherewith they were cured; but as this occasioned great frauds, therefore by an act of the 5th of his late majesty, the curers of fish for foreign markets are now allowed to have the salt they so use duty free, and are allowed a small bounty in lieu of the former drawbacks; but then, to entitle themselves either to this exemption or bounty, the fish so cured must be brought to some British port, in order to be from thence exported, and that the exporter may have a certificate from the proper officers of that port, certifying the quantities and qualities of the fish by him exported; which certificate is to be delivered to the Salt-office, in order to entitle him, or the person from whom he bought the fish, to an exemption from the duties payable upon the salt made use of in curing the fish; and besides this certificate, the exporter must have a debenture from the collector of the customs of the port where such fish are entered out for exportation, and verified by the searcher as to the quantity, without which he cannot entitle himself to the bounty; from whence it is plain, that, as our laws now stand, neither the company, nor any one else, can entitle themselves to any exemption or bounty, as to the fish sent by yaggers or running ships directly from the busses to any foreign market.

I must therefore conclude, that if this company ever export any herrings to a foreign market, they will lose above 3 per cent. upon all the money employed in that trade; and with regard to the home consumption, I am persuaded, our private traders will be able to undersell them more than 3 per cent. consequently, if they carry on any trade at all, they will lose more than they are to receive from the government yearly, which will every year diminish their capital; and if they carry on no trade at all, as they are in that case to have no allowance from the government, their very expences of management will at last eat it up.

My lords; if these things be considered, I believe it will be allowed, that my apprehensions are well founded; and surely, my noble friend who spoke last will not say, that the ruin of widows and orphans is not a consequence that ought to be avoided. However, this consequence, alarming as it is, I should be willing to run the risk of, if I thought that the public company by this Bill to be erected, would in the least contribute to recover or promote the herring fishery; but the only attempt that has been made to shew, that a company may be useful for this purpose, is, that they may send out such a number of busses, with running ships to attend them, upon a joint account, as to be able to share with the Dutch in the great profits made by the first of foreign markets: now, if they are to pay the high duties upon all salt employed in curing such herrings, and to

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have no bounty, which must be their case, I believe their profits will not be very considerable, even upon the fish thus sold at the first of foreign markets.

Besides this, my lords, they must labour under another very great disadvantage, on account of the duties payable in this kingdom upon many of the materials necessary for fitting out and victualling their busses or fishing ships; by a calculation which, I find, was given in to the gentlemen called the committee on the British fishery, it is computed, that the duties to be paid on the several materials necessary for building and victualling a vessel of 75 tons, to be employed in the herring fishery, that is to say, for victualling her for one season only, amount to 150*l.* of which above 74*l.* is for the duties payable on the materials for victualling only, to which we must add 25*l.* for duties paid annually on the materials necessary for repairing the vessel and fishing tackle, all which is an expence the Dutch are absolutely free from; and if to this extraordinary expence we add the interest of the money, we shall find, that the high premium per ton to be allowed by this Act, will do very little more than put our herring fishers upon an equal footing with the Dutch.

These disadvantages, my lords, I shall admit, that our private adventurers as well as the company will still labour under, notwithstanding any provision in this Bill to the contrary; but this is my chief objection to the Bill. In short the scheme proposed by this Bill seems to be as much a crude, indigested scheme as any that was ever brought before parliament. They do not seem to have considered maturely what it is that has hitherto prevented our engrossing this trade to ourselves alone. Before the Union we were jealous of every thing that might tend to the enriching of Scotland; therefore we never thought of setting up the herring fishery, because a great benefit would thereby have accrued to the people of that country; and by that time the Union was concluded, our trade, our manufactures, and our navigation were so loaded with taxes and duties, by the heavy and necessary wars we had been engaged in, that it was impossible for our people to contend with the Dutch in any branch of trade, especially one they had been long in possession of; for those who can carry on any trade at the smallest expence, will always be able to sell cheapest, and by that means will engross every foreign market.

For this reason, my lords, the committee I have mentioned should have considered of the most proper and effectual methods for removing the weight of our taxes, from every material necessary for carrying on the herring fishery, and especially the salt duty with respect to the salt employed for curing the fish exported, or for victualling the ship with salt provisions; and indeed, I wonder they had not this more under their consideration, when it appears, that they had a paper laid before them by a worthy admiral, by which they were informed, that in 1738, some gentlemen sent out three fishing vessels and two running vessels to fish for herrings, that those gentlemen found they could both catch and cure their fish as well as the Dutch, that they got first to the market both at Hamburgh and Bremen, and that they sold their fish at as high a price as any brought by the Dutch; but were obliged to give over the trade, because of the difficulties they found to settle their accounts with the salt commissioners. After hearing of such a paper, it was natural to expect some clause in this Bill for removing those difficulties; but not a word is to be found for this purpose.

My lords; the erecting of a public company, and the granting of a high premium, seems to be the only thing the promoters of this Bill had in view; and even for this purpose the Bill is, in my opinion, very incorrectly drawn up. As no time is limited for closing the subscription, stock-jobbers, who have a mind to make this company's stock a fund for stock-jobbing, will delay subscribing until the five years are near expired; and as soon as they are, they will then make use of every stock-jobbing art, to propagate an opinion of the extraordinary profits to be made by this company, to the end that they may sell out at an advanced price.

Then, my lords, as to the 10,000*l.* to be subscribed by each chamber, it does not seem clear to me, whether that money is to be a part of the 500,000*l.* or no. If the money to be subscribed by the chambers is not to be deemed a part of the 500,000*l.* and as the number of chambers is not limited, no one can say how large a sum the government may be obliged to pay 3 per cent. for. And on the other hand, if the whole money to be subscribed by the chambers, as well as what is subscribed at London is not to exceed 500,000*l.* the chambers may be entirely excluded, because the whole may be subscribed at

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London, before any chamber can be formed in any of the out ports.

Lastly, my lords, I do not think Campbell-town in Argyleshire, a proper place for the western rendezvous, because, according to all accounts I have had either by reading or conversation, the rendezvous should be a little more to the northward, and likewise more westward at some of the western islands, in order to follow the herring shoals which go round by the west of Ireland, as well as those which steer southward by St. George's Channel.

In short, my lords, it would be endless to point out all the errors and defects of the Bill now before us, therefore I hope the affair will be put off till next session, when noble lords will have time to form a scheme that may be effectual, and to prepare a proper Bill for carrying it into execution; for nothing can be more prejudicial to the fishing trade, than to pursue an imperfect and impracticable scheme for its encouragement. By the bad success with which the prosecution of such a scheme must be attended, people will be induced to think, that it is impossible for us to carry on the herring fishery to advantage; and if such an opinion should once generally prevail, no man will engage in it for the future.

The Duke of *Argyle*:

My lords; when I stand up to declare myself in favour of this Bill, I hope, it will not be supposed, that I think the scheme so well concerted, or the Bill so perfectly framed, as they might have been. I know there are errors and defects in both, and when an experiment comes to be made, many more may be discovered than can now be suggested; but Rome, they say, was not built in a day, nor can we expect, should we sit here till this time twelvemonth, to form a scheme so perfect, or a Bill so complete, that no objection, no error or defect, could be suggested against it. We must proceed in this as in other things, by degrees; and when a spirit prevails among the people, from which the public may be made to reap great benefit, it would be criminal in the legislature to neglect taking advantage of it. This is the case at present: there is a spirit, and I think a very laudable spirit, prevailing at this time among all ranks of people, for the encouragement of the herring fishery: for this purpose the principal thing wanted is a large sum to be employed in this way; and for raising such a sum, there is no way so proper, there is indeed no other way, but that of establishing a public company with a power to take in subscriptions, and under such regulations as shall be prescribed by the legislature, or by his majesty's charter. If advantage be taken of the spirit that now prevails, a large sum may for this purpose be raised; but if you neglect the opportunity that now offers; if you allow this spirit to evaporate, it may hereafter be impossible to raise any sum for such a purpose by subscription; therefore, I think, it would be criminal in us not to pass this Bill.

That the company now to be erected may by fraudulent management exhaust their capital, as some other companies have done, is possible; but considering that their accounts are to be yearly under the inspection of parliament, it is not very probable; and that they should without bad management exhaust their capital by mere losses in trade, is almost utterly impossible. To lay a foundation for such an apprehension, it has been supposed, that this company will from the moment of their establishment begin to contend with the Dutch in supplying the foreign markets with herrings; but will any man of common sense advise such an attempt? In the infancy of any trade or manufacture, the most that was ever proposed to be done, was to supply, and by degrees increase, our home consumption. Therefore this company may now and then send some of their running ships to a foreign market, when they find they can be there before, or as soon as the Dutch; and though they should pay the salt duty, and be entitled to no bounty, they can never be losers by what fish they sell at such a market; but their chief aim will certainly be to supply our home consumption, especially here about London, in which the Dutch cannot contend with them; and it is not probable, that any of our own private traders will soon be able to contend with them to any great degree.

Now, my lords, with regard to our home consumption, a public company will certainly be of great advantage to the nation: as the directors of that company will always be gentlemen and merchants of the first figure and fashion amongst us, they may by their example render it fashionable to have herrings a part of our great entertainments: I wish we could introduce them instead of our French ragouts and kickshaws: if this cannot be done, they may surely be rendered more fashionable than

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they are at present; by which the consumption may be so increased, that the company may for some years sell all they can catch at a reasonable profit; and before they and our private traders can overstock the home markets, we shall have time to consider of the most proper methods for enabling them to supply the foreign, which methods we may much more easily and certainly investigate, after we have had some experience of the trade, than we can now when we are almost entirely ignorant of it.

From a public company, my lords, we shall reap a very considerable advantage, which is that of preventing any herrings taken by foreigners from being smuggled into the kingdom; for though the importing of any such has for many years been prohibited by law, yet we know that it is to this day practised with impunity, and connived at by the fishermen and others upon our coasts, because some of their neighbours are generally concerned in the adventure: whereas, were a public fishing company once established, every officer, sailor, or fisherman employed by them, would make it their business to detect such frauds; and upon every discovery the company would certainly resolve to prosecute at their own expence, which at present is so heavy upon private men, that they are afraid to commence any prosecution. Besides, the seamen and fishermen would be much more ready to make discoveries to the company, than they are now to our custom-house officers; because by becoming an informer, they throw themselves out of employment in the little out ports they belong to, and they know the officer cannot give them employment; whereas they would all know, that the company not only could, but certainly would take them into their service, and thereby furnish them with constant employment.

I am therefore of opinion, my lords, that the establishing of this company is one of the best methods we can take for preventing not only the clandestine importation of foreign fish, but every other sort of smuggling; and as the company may, for some years, at least, carry on a great and advantageous trade, by supplying the home consumption, the noble lord, who spoke last, has no occasion to be afraid of seeing the avenues to parliament crowded by widows and orphans, who have been ruined by subscribing their all into the stock of this company. As the consumption of herrings and other sorts of salt fish is vastly great in the several parts of the British dominions, could we supply this whole demand from our own fisheries, carried on either by the company or by private men, it would be a very great addition both to our navigation and number of seamen; and when we can do more than this, it will then be time, and we shall long before have an opportunity, to consider how to relieve our fishing trade from every tax that now lies heavy upon it; but as this is a matter that will require many new regulations, the consideration of it could not be entered upon in concerting this scheme, or in framing this Bill; consequently, the not attempting to remove those difficulties, which our fishing adventurers formerly met with in settling their accounts with the salt commissioners, was not a neglect, but a prudent omission, as not being absolutely necessary at present, though I hope it will be done, and I think may effectually be done, the next session of parliament.

My lords, I have, I think, removed the two chief objections made to the scheme proposed to be established by this Bill; and now as to those made to the Bill itself: that of not limiting the time for closing the subscription cannot be of any weight, because it is to be hoped, that the whole sum will be subscribed in a short time, which of itself will put an end to the subscription; and if it should not, as some new Bill may next session probably be brought in for explaining and amending the Bill now before us, we may then enact, that no transfer of any of the stock of this company shall be made for five years from the date of the subscription. But, I hope, there will be no occasion for any such new clause; and considering the law we have now in force against stock-jobbing, which a noble lord so justly commended, I think, we have no great occasion to be afraid of any stock-jobbing scheme that can hereafter be set on foot.

This objection cannot, therefore, be of weight enough for deferring till next session, a Bill that may be of so much benefit to the nation; and I was surprised to hear the noble lord say, that he was not clear as to the question, whether the money to be subscribed by the chambers was to be a part of the 500,000*l.* for, I think, there is nothing more clear than that it is; nor is there, I think, the least danger, that the gentlemen appointed by this Bill to receive subscriptions, will not take care to reserve a sufficient sum to be subscribed by the



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chambers; because they may soon hear from every out port of the kingdom, whether it be likely that the people at that port will form a chamber; and if too large a sum should be reserved for this purpose, the subscription may be again opened here for the residue, which is a good reason for not limiting the time for closing the subscription by the Bill now before us.

As to the western rendezvous for the fishing ships in the latter season, the place appointed by this Bill has always hitherto been thought the most proper, because the shoals of herrings are generally by that time moved to the seas in that neighbourhood, or to the southward of that place; and in their way thither they will every year be accompanied by some of the fishing ships, that against the first season had rendezvoused in Brassa-sound. But, my lords, if experience should hereafter teach us, that Campbell-town is not the most proper place for the western rendezvous, it may be easily altered by some future Bill brought in for the farther regulation and improvement of our fisheries, for no one can suppose, that this will be the last; and if any such alteration should be found necessary, I am sure, I shall most readily consent to it.

To conclude, my lords, those who have never made the experiment may imagine, that the herring fishery may be set on foot by private adventurers; but I am convinced it never will, because I have made the experiment. Being desirous to encourage and promote this trade, I joined a pretty large sum with some gentlemen as honest and as conversant in this trade as any in Great Britain; but we were at last obliged to give it up, after losing one half of our capital; the chief reason of which was, because in the inland countries the people are not yet got into the way of eating salt herrings, and London and all our towns upon the coast are supplied by herrings smuggled from Holland, which were sold cheaper than we could sell ours, because they were free from the salt duty, and many other duties that enhance the price of all fish caught by the people of this kingdom. Now a company with a large capital will not only be able to bear a loss for a year or two, but may more effectually propagate the consumption of herrings, and prevent the clandestine importation of Dutch, than can be done by private and separate adventurers.

For this reason, my lords, I think, a company with a joint stock at first absolutely necessary for setting up this trade. The only difficulty is, how to get subscriptions enough for raising a sufficient joint stock; and for this purpose no future time can be so proper as the present; for I must observe, that the people in every country are like a fair lady, if you do not catch them while they are in the humour, your addresses will afterwards be in vain; therefore, I hope, this Bill, imperfect as it is, will now without the least amendment be passed into a law; for every one may judge what will be the consequence of your making any amendment to it in this House.

On the 6th instant the Bill was read a third time and passed.

*The King's Speech at the Close of the Session.*] April 12. The King came to the House of Lords and put an end to the session with the following Speech to both Houses:

"My Lords and Gentlemen,

"I cannot put an end to this session of parliament, without returning you my hearty thanks for the zeal and dispatch, with which you have gone through the public business. Nothing could have afforded me more satisfaction, than the attention you have given to those essential points of our national interest, which I earnestly recommended to you at the opening of the session. And it is with the greatest pleasure I have now given my assent to those laws which have been the result of your prudent deliberations, for advancing the public credit; for promoting the commerce and manufactures of this kingdom; and for encouraging the industry of my good subjects.

"There has been so little alteration in the state of affairs abroad, since your meeting, that I have scarce any thing to add upon that head. My resolution to adhere strictly to the engagements I have entered into, and to do every thing in my power to preserve the peace, which has been so happily established, continues the same; and I have received the fullest assurances from all my allies, of their disposition to promote this great end. My sincere endeavours shall be exerted, to cultivate and improve this good disposition, that my own kingdoms, as well as the rest of Europe, may long enjoy the happy fruits of the present tranquillity.

"Gentlemen of the House of Commons,

"I thank you, in a particular manner,



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for the supplies you have so readily granted me; and for the public spirit you have shewn, in laying hold of the very first opportunity to reduce the interest of the National Debt, without the least infringement of parliamentary faith. The success which has already attended this wise measure, is a proof of the present credit of this kingdom, and has laid a sure foundation for the continuance of it; and cannot fail to add strength and reputation to my government, both at home and abroad.

"My Lords and Gentlemen,

"I make no doubt but you will carry into your respective countries, the same good principles and affections which I have experienced from you here. Let it be your business to promote peace and harmony; and to support and propagate religion, good manners, and good order, amongst my people; whose true and lasting happiness shall be my constant care."*

The Parliament was then prorogued to the 14th of June. It was afterwards farther prorogued to the 17th of January 1751.

* "Immediately after the prorogation, his majesty visited his German dominions. During his absence, many of the late rioters, in cutting down the turnpikes in the west of England, were tried. But, though the evidence against many of them was very clear and full, yet very few were convicted, the juries being generally prepossessed in their favour. Never were the jails all over England, known to be more crowded than they were at this time with malefactors. In May this year, the prison of Newgate in London, contracted an infection from the number and stench of the prisoners confined there, which, at the sittings at the Old Bailey, proved fatal to sir Samuel Pennant, lord mayor of London, sir Daniel Lambert, an alderman, Mr. Clark, a baron of the exchequer, sir Thomas Abney, a judge of the Common Pleas, many of the lawyers who attended the sessions, the greatest part of the jury, and a great number of other persons. The prevailing degeneracy of the times, was, perhaps, justly attributed to the reduction of the army upon the return of the forces from abroad. In all other respects, this year was barren of public events in England. A son was born to the prince of Wales, on the 13th of May, who was baptized by the name of Frederic William, and their royal highnesses received the usual congratulations upon the same. The attention of the public was more and more turned to the improvement of the fisheries, and several vessels for that purpose were built and launched with extraordinary acclamations and ceremony." Tindal.

# 1751.

## FOURTH SESSION OF THE TENTH PARLIAMENT OF GREAT BRITAIN.

*The King's Speech on Opening the Session.*] January 17, 1751. The King came to the House of Peers, and opened the session with the following Speech to both Houses:

"My Lords and Gentlemen,

"I have postponed your meeting to this time, that I might consult your private convenience, as far was consistent with the occasions of the public. The continuance of the present tranquillity has afforded an opportunity for the former, and rendered the latter less pressing. Since the last session, my care and attention have been constantly employed in improving this situation; and I have the satisfaction to acquaint you, that I have concluded a Treaty with my good brother the king of Spain, whereby such particular differences, as from the nature of them, could not be settled in a general treaty, have been amicably adjusted, without the intervention of any other party; and the commerce of my subjects with that country re-established upon the most advantageous and sure foundations.

"In the progress of this work, I have received such assurances of the sincere disposition of the Catholic king, to cement and maintain the most perfect union with me, as leave no room to doubt of its good effects being felt in all parts; and there is the greatest reason to hope that the ancient friendship, and good correspondence between the two nations, which had been long unfortunately interrupted, will from mutual interest and inclination, be now effectually restored.

"I have also, in conjunction with the Empress-queen, and the States-General, concluded a Treaty with the elector of Bavaria; and am taking such further measures as may best tend to strengthen and secure the tranquillity of the empire, support its system, and timely prevent such events as have been found by experience to endanger the common cause, involve Europe in the calamities of war, and occasion the loss of much blood and treasure to my own kingdoms.

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"Both these Treaties shall be laid before you; and, as I have told you the views with which I have entered into them, I must do justice to all the other contracting powers in the definitive treaty of Aix-la-Chapelle, by acquainting you, that I have received from them the most full and clear declarations of their resolution to preserve the general peace.

"That nothing might be wanting for these salutary purposes, I have taken care to strengthen and consolidate the ties of union and friendship between me and my allies, the better to secure our mutual interests, maintain the peace already subsisting, and to prevent the occasion of any future rupture: and, that there might remain no doubt of the uprightness and sincerity of my intentions, I have made the proper communications of the measures I have taken, and the principles on which they have been founded.

"Gentlemen of the House of Commons,

"I have ordered Estimates to be laid before you, for the current service of the year: I desire only such Supplies as shall be necessary for your own security, and making good such engagements as have been contracted, and are now communicated to you. The successful and happy progress which has been made in the reduction of the interest of the National Debt, does great honour to this parliament, and adds much to our reputation in foreign countries. So little of this great work remains unfinished, that I make no doubt of your completing it this session, in the most just and equitable manner.

"My Lords and Gentlemen,

"I have nothing further to recommend to you in particular: let me exhort you in general, to make the best use of the present state of tranquillity, for improving the trade and commerce of my kingdoms; for enforcing the execution of the laws; and for suppressing those outrages and violences, which are inconsistent with all good order and government, and endanger the lives and properties of my subjects; whose happiness, and flourishing condition, I have entirely at heart."

*The Lords' Address of Thanks.*] His majesty having retired, their lordships agreed upon the following Address:

"Most Gracious Sovereign,

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, return your majesty our humble thanks for your gracious Speech from the throne.

"Your majesty's paternal care, always watchful for the prosperity of your kingdoms, and mixed with a generous extensive concern for the common welfare of Europe, has appeared in nothing more than in your unwearied endeavours to improve the present state of tranquillity. This must be evident to all the world, from the series of important transactions which your majesty has been pleased to lay before us; and it is with the utmost thankfulness we acknowledge your goodness in communicating to us, that a Treaty has been so successfully concluded between your majesty and the king of Spain. As the commerce of these kingdoms is the source of the wealth of your subjects, and of the strength and splendour of your crown, so your majesty's attention to re-establish our trade with that country, on the most advantageous conditions, is a fresh instance of your uninterrupted vigilance for the most essential concerns of your people. Mutual interest and mutual inclination are the best foundations of a lasting amity and good correspondence; which, from the concurrence of such motives, we firmly hope will be happily restored between the two nations in all parts, and that those causes which have long interrupted them are now effectually removed.

"Your royal wisdom has not been confined to the adjusting of present differences and the remedying of inconveniencies actually existing: it is with pleasure we observe, that your foresight is exerting itself to secure us, as far as can be done by human prudence, against such events as have formerly involved Europe in the calamities of war. In this view we look upon the Treaty which your majesty has lately concluded with the elector of Bavaria, and the further measures which you are graciously pleased to inform us are carrying on for securing the tranquillity, and supporting the system of the empire. Nothing can tend more to effectuate these measures, than the strengthening and consolidating the ties of union and friendship between your majesty and your allies; which cannot fail at the same time to be attended with the best consequences for promoting our mutual interests, preserving the general repose, and preventing the occasion of any future rupture.

"We are truly sensible of your majesty's goodness, in laying before us these your salutary views and intentions. In

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the prosecution of them the weight and influence of the crown of Great Britain are very visible; and we do with the greatest cheerfulness assure your majesty of our steady and zealous support in all such measures as may best answer these desirable ends.

"Our unshaken duty and affection to your sacred person, and our love of our country, are the surest pledges of our conduct. It shall be our first care to demonstrate our inviolable adherence to these principles; nor shall any thing be wanting on our part, to advance the trade and flourishing condition of these kingdoms; to enforce the observance of the laws, and of good order, amongst your people: and to maintain the dignity and strength of your majesty's crown and government both at home and abroad."

*The King's Answer.*] The King gave this Answer:

"My Lords,

"I return you my hearty thanks for this dutiful and affectionate Address. The satisfaction you have so unanimously expressed in the treaties I have lately concluded, and the measures which I am pursuing, gives me the greatest pleasure. I entirely rely on your zeal and support in bringing them to perfection, for the welfare of my own kingdoms, and the general tranquillity of Europe."

*Debate in the Commons on the Address of Thanks.**] The Commons being returned to their House,

Mr. *Horatio Walpole*, jun. moved "That an humble Address be presented to his majesty, to return his majesty the thanks of this House, for his most gracious Speech from the throne; and to congratulate his majesty upon his safe and happy return to these kingdoms; to express our warmest acknowledgments of gratitude, for his majesty's unwearied endeavours to establish the present happy tranquillity upon the surest foundations; to congratulate his majesty on the conclusion of a treaty with the king of Spain, by which the particular differences that remained unsettled between his majesty and that crown are amicably adjusted; and to express our great satisfaction at the reason there is to hope, from the assurances his majesty has received of the sincere disposition of the Catholic king, to cement and maintain the most perfect union with his majesty, that the ancient friendship will be restored, and an uninterrupted good correspondence subsist between the two nations, to their mutual advantage and happiness; to acknowledge his majesty's great wisdom and foresight, in taking the best measures timely to prevent such events as might hereafter involve Europe in the calamities of war; and to express our well-grounded hopes, from the full and clear declarations of all the contracting powers in the definitive treaty of Aix-la-Chapelle, as well as from his majesty's care and attention to strengthen the ties of union and friendship between his majesty and his allies, that we may long enjoy the blessings of a general peace; to assure his majesty, that we will cheerfully raise such supplies as shall be found necessary for the security of his majesty's government, and to make good the engagements entered into by his majesty for the public good, and which have been communicated to this House; to express the great satisfaction with which we receive his majesty's gracious approbation of the progress already made towards reducing the interest of the national debt; assuring his majesty, that we will use our immediate endeavours to finish that great work with justice and equity; to declare our sense of the happiness we enjoy under his majesty's government; and to assure his majesty, that we will give all possible attention to whatever may promote the trade and commerce of these kingdoms; and endeavour to render the laws more effectual, by enforcing their execution; thereby to discourage and suppress the outrageous enormities committed in defiance of them."

Mr. Proby (afterwards lord Carysfort) having seconded the motion,

The Earl of *Egmont* rose and said:

Sir; from what has been proposed by the two hon. gentlemen who made and seconded this motion, I should have concluded, if they had not told me otherwise, that they were acquainted with all the secrets of the cabinet, and had seen all the instructions sent to our ministers at foreign courts, as well as all the advices received from them; for without such a thorough knowledge, no man can, in my opinion, with honour agree to what they have proposed; and what gives me much more concern, I am afraid, that such a thorough knowledge would be so far from warranting such a plumb approbation of all our

* From the London Magazine.

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foreign affairs, that it would furnish us with sufficient reasons for censuring every step that has been taken for some years past. As to the authority which, it is pretended, we have from his majesty's Speech from the throne, every gentleman knows, that in this House we are always to look upon that speech, as the speech of the minister; and I have read of very few ministers, whose asseverations, though in the most religious as well as solemn manner, I should depend on, with respect to any fact relating to their own conduct; nor can I say, that I have more dependence upon the testimony of our present ministers, than I could ever have upon that of any other. I must even be so free as to say, that what I have heard this day, renders me a little more suspicious of their regard to truth, than I ever was heretofore. I confess, I have as little acquaintance with the affairs of the cabinet as either of the hon. gentlemen, or I believe, as any gentleman in the kingdom: I know nothing of our foreign affairs but what I have from our public Gazettes, and these I know are often cooked up in order to deceive; but suppose they were not, and suppose we had, from this newspaper knowledge, sufficient authority for believing every thing which, by this motion, we are to profess we believe, would this be an authority sufficient for this House to found any resolution upon? Is it not inconsistent with the dignity of this House, and with the uniform practice of our ancestors, to found our resolutions upon any thing but parliamentary knowledge.

But now, Sir, with regard to this newspaper knowledge, can any gentleman who has read the common newspapers for this twelvemonth past, pretend to say, that we have even from thence a sufficient authority for agreeing to what is now proposed? As I have time enough upon my hands, I have read some of the foreign, as well as most of our own newspapers; but if the hon. gentleman founds his motion upon nothing but what he has read in the newspapers, I must suppose he has read none except the London Gazette; for if he had read any other, he could not, surely, talk of the present happy tranquillity, when almost every day's newspaper informs us of some of our merchant-ships being seized by the Spaniards, or of some attack being made upon our infant colony in Nova Scotia by the French: nor have we of late the least account of any endeavours to put a stop to the depredations of the one, or the attacks of the other. What the hon. gentleman means therefore by the present happy tranquillity, I cannot comprehend, unless he means the tranquillity in Germany; and that would, I believe, have been upon a much more solid foundation, if we had never meddled with it; for if we had never undertaken its defence, the princes would have taken care of it themselves, by shewing a little more condescension to one another, and thereby preserving the union as well as the constitution of the empire, which can never be so effectually disturbed, as when the constituent members fall out among themselves, and rashly chuse to decide their disputes by the sword, instead of having them decided by the laws of their country.

As to the late treaty with Spain, Sir, if we must talk of it upon the authority of newspapers, I am sure we have no reason to talk well of it. If the articles be such as have been set forth in some of our newspapers, instead of congratulating, I most sincerely condole with my country upon our being obliged to agree to it. I cannot see any thing we have got by it, but the 100,000*l.* for our South-Sea Company; and for that paltry sum we have given up the Assiento contract: we have given up the claim that company had upon Spain, amounting to near a million: we have given up all the claims our merchants had upon Spain, for the many depredations committed by the Spanish guards costas before the war, amounting to 3 or 400,000*l.*: and, finally, we have given up the freedom of our trade and navigation in the American seas, and, if the court of Spain pleases, in every other sea, and every part of the ocean. For such a trifling sum to give up such considerable, and such just claims, or indeed, for any sum to barter away the freedom of our trade and navigation, would make one think, that we had not a ship fit to put to sea for making reprisals, nor a man able to bear arms in the kingdom.

I say, Sir, to barter away the freedom of our trade and navigation; for as the right the Spaniards pretend to of searching our ships in the open seas, and seizing and confiscating them, if they find any of what they are pleased to call contraband goods on board, has always by them been founded upon former treaties, our concluding any particular treaty with that nation, and thereby confirming all former treaties, without any explanation, is an acknowledgment of the right they pre-

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tend to; and though they have hitherto exercised that right only in the seas of America, they have the same right, and they may hereafter exercise it, in every part of the world. They may search our ships trading upon the coast of Portugal, or in the Mediterranean, in short, in any part of the ocean; and if they find any Spanish money, or any of the produce of their American dominions on board, they may, from the same principle, claim a right to seize and confiscate ship and cargo. Can we congratulate his majesty upon the conclusion of such a treaty? Can we say, that any one particular difference has been thereby adjusted, except those that have been tamely given up by us? Sir, we all know the complaisance of ministers: we know, that they will protest in the most solemn manner, that they have, or that their master has a sincere disposition to maintain the most perfect union with us, when their actions daily manifest the direct contrary; and therefore I can entertain no hopes from any assurances given by ministers, who insist upon a right that must occasion continual broils between the two nations, that must produce a new rupture, unless prevented by a most abject and scandalous submission on our side; for without this, I will say, that it is impossible to live in peace with a nation that pretends to such a right, and will exercise it.

As to the wisdom and foresight of our ministers, in taking the best measures timely to prevent the events, that might hereafter involve Europe in the calamities of war, I shall be ready to acknowledge it, when I know what those events are, and what measures they have taken to prevent them, in case I find, upon examination, that they are really the best for answering the end intended; but without knowing both the events and the measures, I am sure I should neither have wisdom nor foresight, if I acknowledged the wisdom and foresight of our ministers; and whatever declarations may have been made by the contracting powers in the definitive treaty of Aix-la-Chapelle, I am very sure the late actions of some of them can give us no hopes of long enjoying the blessings of peace by any other method than that of a late famous minister, now no more: I mean, by submitting tamely to all the insults and indignities they may be pleased to put upon us; for as we must talk upon this occasion from news-papers, do not they inform us, that one of our merchant ships being lately obliged to put into one of the Spanish ports in the West Indies by stress of weather, and in order to shelter herself from a storm, instead of meeting with that comfort and relief, to which she was entitled by express treaty, as well as by the law of nations, she was searched, seized and condemned, under the old pretence of having contraband goods on board, though there was not the least proof of her having ever been engaged in any prohibited trade? Do not the French treat us in the most contemptuous manner, by pretending to send orders to evacuate the neutral islands, while at the same time they are every day fortifying themselves more and more there? What signify their declarations of peace, when their actions should before now have re-commenced the war, had we shewn a proper resentment? And should it at last become necessary for us to shew a proper resentment, I doubt much, if any alliance we can form could be of advantage to us, because it would draw us into a war upon the continent, which the misapplying of so much money in the last has rendered us unable to support, especially as we must contribute more when our allies engage upon our account, than when we engage upon theirs.

This, Sir, leads me to the last head of the Address proposed, which I shall have occasion to speak to, and by which we are to engage blindfold to make good all the engagements our ministers have entered into. What the hon. gentleman means by the words he has added, 'and which have been communicated to us,' it is impossible for me, or any one else, to comprehend; for no one engagement of any kind has as yet been communicated to us. Surely, the hon. gentleman will not say, that our being told, in the Speech from the throne, of a treaty with the elector of Bavaria, is a communication of that treaty; or that we ought to engage to make it good, before being informed of any one article in the treaty. If it be only a defensive alliance, we have nothing to do with it, nor any occasion to engage to make it good: if it be a subsidy treaty, as we are informed by news-papers it is, I must be against approving it, or engaging to make it good: the experience of what happened in the last war, should make us resolve against all subsidy treaties in time of peace: we had for some years paid a subsidy to the Danes, and another to the Hessians; but soon after we engaged in the war, the former left us, and the latter actually engaged

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against us. It will always be so: the views and circumstances of princes and states are changing every day; therefore it is not subsidies in time of peace, but their own interest, and our wise councils, that will make them our friends in time of war. Besides, what occasion have we at present for engaging in any new treaties? We may thereby render things worse, we cannot make them better: his majesty, in his Speech from the throne, at the opening of last session, told us, that all things were well; and we cannot make them better than well, unless we were to talk in Scripture language, which is not, I think, the language of politicians. Why, then, should we engage in any new treaties? We may make what declarations we will of the uprightness of our intention; but those who are our natural enemies will not believe us: they will suppose that we have some ambitious design in view, which will put them upon forming alliances likewise; and by this a mutual jealousy will be raised, which the least accident may kindle into the flames of war.

For these reasons, Sir, I can approve of no subsidy treaties; and I am really surprised how ministers can conclude any subsidy treaty without the least previous authority from parliament; for it is bringing us under a dilemma, that we must either expose our sovereign to the contempt of foreign states, by refusing the subsidy he has engaged to pay, or we must load our country with an expence which we think unnecessary. But of two evils I shall always be for chusing the least, which is that of refusing the promised subsidy, because we may in some degree vindicate our sovereign, by punishing those that advised him, or by sending them in person to answer for the subsidy they had advised him to promise; therefore, upon this occasion, I hope we shall content ourselves with assuring his majesty, that we will cheerfully raise such supplies as shall be found necessary for the security of his government. These words I should chuse to leave standing in the Address proposed, but as to all the rest that come between congratulating his majesty upon his safe return, and expressing our satisfaction with his majesty's approbation of what we have done in regard to the interest of the national debt, I think they should all be left out.

By thus curtailing what the hon. gentleman has been pleased to propose, we shall form an Address, Sir, that will be consistent with the dignity of this House, and proper to be presented by an assembly of free Britons to their sovereign; but as it stands at present, it can suit only a Turkish divan to their sultan. It is, in my opinion, the most servile Address that was ever proposed to a British House of Commons: we have for some years, it is true, been more complaisant in our addresses than formerly, and much more complaisant than I think we ought to be; but this is a more fulsome compliment, a more particular approbation of measures we know nothing of, a more express promise to made good engagements which we are quite ignorant of, than was ever offered to a British parliament. This the hon. gentleman who proposed it was, it seems, himself sensible of, which laid him under a necessity to insert some words, which either have no meaning, or such a one as is not strictly true. We cannot therefore agree to it without some amendment; and the best we can propose is, to leave out the words or sentences I have mentioned, and I shall conclude with moving accordingly,

Mr. *William Pitt*:

Sir; if no gentleman were to propose the Address at the opening of the session, but one who is thoroughly acquainted with all the secrets of the cabinet, it could never be proposed by any one but the minister for the time being, in which case there would be much more reason to call our Address the address of the minister, than there ever was for calling the king's Speech the speech of the minister; but every one knows, that his majesty's Speech at the opening of the session, is to give us an account of the state of our affairs both abroad and at home, and to open to us the reasons for his calling us together; and ever since I have known any thing of parliamentary affairs, it has been the custom of this House to make our sovereign a compliment upon every subject he has been pleased to open to us. In making this compliment, we always suppose the facts to be exactly true as represented to us by his majesty; but are not by this bound to approve any measure, or to make good any engagement, if afterwards upon enquiry we should find that it had been misrepresented to us. On the contrary, we may not only censure the measure, or refuse to make good the engagement, but we may punish those who had advised the king to represent things

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to us in such an erroneous light. Whatever, therefore, may have been the custom of our ancestors, their maxim of considering the king's speech as the speech of the ministers, must now deserve to be laughed at. It must be considered as the speech of our sovereign, and whoever forms the address he proposes upon that speech, must surely have a better authority for what he proposes, than any one can have for opposing it; because, until we have had the proper lights communicated to us, no opposition can be founded upon any thing but common news-papers, or common rumours, which, I hope, will be allowed not to be of equal authority with what we have heard from the throne.

The noble lord is therefore mistaken, Sir, if he supposes, that the Address proposed is founded upon common news-papers; but his opposition can be founded upon nothing else, and even from them seems to be very ill founded; for all the disturbances he talks of, and from which he seems to infer that the tranquillity is not yet established, are such as may happen in times of the most profound tranquillity; they are founded upon little disputes between the Spaniards and us, or between the French and us, which are not yet settled; but even our news-papers have informed us, that our ministers at both courts are endeavouring to settle them, and that our negociations for this purpose seem to be in great forwardness. These disputes can never affect the general tranquillity of Europe, and the most certain way to get them settled to our own liking, is to get that tranquillity established upon a right footing, that is to say, upon a firm alliance between his majesty and such a confederacy upon the continent, as will be an overmatch for the House of Bourbon, should they continue as closely united as they have done for some years past, which, I hope, we shall find means to prevent, and the treaty just concluded with Spain I must look on as a step towards this wise and salutary end.

Upon this subject, Sir, I was really surprised to hear the noble lord summing up such concessions on our side, when it so evidently appears from the treaty itself, supposing it to be the same with what we have seen in the news-papers, that we have not made so much as one concession, except that of the Assiento contract; and there was such a short time remaining in the contract, that it was not worth our while to engage again in the trade, unless Spain would have favoured us with a renewal of the term. This, therefore, hardly deserves the name of a concession; and as to the demands of our merchants, and of our South Sea Company, they were all cancelled by the breaking out of the war: they were not only cancelled, but in a national way we have made ourselves sufficient amends for both these demands, supposing them reckoned at the highest computation. The particular sufferers may not, perhaps, have made themselves amends by the war, but the nation has; for the balance of captures on our side amounted to a great deal more than both these demands, even at the noble lord's computation; and this, besides the damage we did the enemy by destroying their forts in America, and laying the trade almost entirely open during the whole course of the war. The Spaniards therefore suffered severely by the war, and this makes them now so fond of accommodating all the particular differences between the two nations; for otherwise they would never have consented to pay any thing to our South Sea Company, or to allow that Company's demand to be so much as mentioned in any treaty between us.

But this of yielding to pay our South Sea Company 100,000*l.* is not the only concession the court of Spain have made by this treaty: they have consented to the re-establishment of our trade in that kingdom upon a more advantageous and a firmer footing than it has been for many years, by restoring the Piedel-Fardo, by agreeing, that the subjects of Great Britain shall not pay any other duties than those paid by the subjects of Spain in the same place, and by agreeing to abolish all innovations that have been introduced in the commerce. These, I believe, were all the differences subsisting between the two nations, wherein no other nation had any part or interest; for as to the right of visiting ships upon their coasts in America, and of confiscating them upon a proof or strong presumption of their having been concerned in a contraband or smuggling trade, it is a difference in which other nations are concerned as well as this; for the Spaniards exercise that right with respect to the ships of all nations, and if our people have suffered more by it than any other, it was, very probably, because of the enmity that has for a good many years subsisted between the two nations, and the frequent misunderstandings that have happened between this court and that of



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Spain. This right, therefore, or what the noble lord was pleased to call the freedom of our trade and navigation in the American seas, could not be brought under consideration in the negociating of this treaty, and, consequently, could not be given up either by the one side or the other. If the Spaniards insist, that their right to visit and search ships sailing upon their coasts in America, is founded upon former treaties, we likewise insist that our right to a free navigation in the American seas is founded upon former treaties; consequently, our agreeing mutually to confirm all former treaties, without any new explanation, can no more be understood to be a giving up of our right, than it can be understood to be a giving up of theirs. Our respective rights, I believe, neither of us will ever expressly give up, or allow to be explained any other way than they are by the nature of things; and if both of us take due care that the exercise of them shall never be abused, they can never be hurtful to either.

I must therefore conclude, Sir, that 'no search' is a stipulation which it is ridiculous to insist on, because it is impossible to be obtained; and after having said this, I expect to be told, that upon a former occasion I concurred heartily in a motion for an Address, not to admit of any treaty of peace with Spain, unless such a stipulation as this should be first obtained as a preliminary thereto. I confess I did, Sir, because I then thought it right, but I was then very young and sanguine: I am now ten years older, and have had time to consider things more coolly: from that consideration I am convinced, that we may as well ask for a free and open trade with all the Spanish settlements in America, as to ask that none of our ships shall be visited or stopt, though sailing within a bow-shot of their shore; and within that distance our ships must often sail, in order to have the benefit of what they call the land breeze. I am also convinced, that all Addresses from this House, during the course of a war, for prescribing terms of peace, are in themselves ridiculous; because the turns or chances of war, are generally so sudden, and often so little expected, that it is impossible to foresee or foretel what terms of peace it may be proper to insist on; and as the crown has the sole power of making peace or war, every such Address must certainly be an encroachment upon the king's prerogative, which has always hitherto proved to be unlucky. For these reasons, I believe I shall never hereafter concur in any such Address, unless made so conditional as to leave the crown at full liberty to agree to such terms of peace as may at the time be thought most proper, which this of 'no search' can never be, unless Spain should be brought so low as to give us a *carte blanche*; and such a low ebb it is not our interest to bring that nation to, nor would the other powers of Europe suffer it, should we attempt it. We must therefore leave them a power to prevent a smuggling trade with their settlements in America, and if we keep upon good terms with that court, I am persuaded they will always exercise it so discreetly, as not to interrupt our lawful commerce or navigation in the American seas, especially if on our side we take care not to encourage our people to transgress the rules of lawful commerce, which, I am afraid, some of our governors in the West Indies have too often done.

As to the events, Sir, that may hereafter involve Europe in the calamities of war, no gentleman can be ignorant of them, who knows any thing of the present circumstances of Europe. A rupture in the north is one that would certainly spread again the flames of war all over Europe, because of the alliances that now subsist between the several powers thereof, and chiefly because almost every prince or state in Europe would, by their own interest, be led to support one side or the other. This, his majesty's measures, whatever they may have been, have hitherto prevented; and this alone is a sufficient foundation for our acknowledging his wisdom and foresight. There is another event, which recent experience must convince us, would rekindle the flames of war all over Europe: I mean the death of the emperor of Germany before the election of a king of the Romans. How is this to be prevented? Certainly, by bringing on such an election as soon as possible, or uniting such a number of the princes in the empire in the proper measure to be taken in case of such an event, as may deprive those, who upon such an occasion would incline to raise disturbances, of all hopes of doing it with effect; for in the empire, as in all other countries, there will always be some of its subjects, who will be inclined to raise civil broils, if their hopes of benefiting be not over-balanced by their fears of suffering by the broils they give birth to; and there is,



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we know, one certain power in Europe, whose ambition will always induce it to sow dissensions amongst the members of the empire; as, on the other hand, the Dutch and we are for our own safety obliged to prevent, if possible, any such dissensions, so far at least, as to prevent their ever coming to an open rupture.

This leads me, Sir, to consider the late treaty with Bavaria, the conclusion of which his majesty has communicated to us in his Speech, and promised to lay the treaty itself before us. This treaty I know as little of as any other gentleman in this House, and yet I cannot help approving of it; because the drawing off of that powerful prince from the interest which his family has long espoused, is, in my opinion, a great point gained, a point that can hardly be purchased too dear; and if for this purpose we are to pay a subsidy, even in time of peace, if it be no more than we can spare, I shall think it well bestowed, because it will furnish us with an opportunity to fix that family in the true system of the empire, and that system which will always at last be found to be the true interest of their country. Princes, Sir, like other men, are too apt to be led by their present interest, and for that they too often run the risk of future ruin. As we have no inducement to intermeddle in the affairs of the continent, but in order to preserve the balance of power, we have this happiness, that the future interest of every prince of the empire, and indeed of every power in Europe, except France alone, will always be in our favour. France, therefore, in all her negociations, is obliged to study the present interest of the prince or state she negociates with. Some she has gained by subsidies, others by giving them hopes of obtaining an addition to their dominions, by joining in an alliance with her. In the last of these two methods we cannot contend with France, for as the preservation of peace is our interest, the *uti possidetis* must be our maxim; but in the first we may, and we may with such success, as to render it impossible for her to make use of the second with any effect; for by subsidies properly applied, we may secure such a confederacy upon the continent, as must leave very little hopes for any prince in Europe to make an addition to his dominions by an alliance with France.

This treaty with Bavaria must therefore, in my opinion, be for the good of Europe in general, as well as of this nation in particular; and if it should not appear to be so, we shall not be obliged by any words in the Address proposed, to make it good. In short, Sir, the Address is so cautiously worded, that we neither approve nor promise but conditionally. If the measures, upon examination, appear to be such as described in this Address, we cannot but approve them: if the treaties, when laid before us, appear to be such as they are represented to be, we cannot refuse making them good: if the endeavours his majesty has used, appear to be the most proper for establishing the present happy tranquillity upon the surest foundation, can we avoid acknowledging our gratitude, even though those endeavours should at last prove ineffectual? If the treaty with Spain tends to restore the ancient friendship and correspondence between the two nations, which is so much for the advantage of both, ought not we to approve of it? If the measures his majesty has taken, appear to be the most prudent that could be thought of for preventing any dangerous event, can we refuse acknowledging his majesty's wisdom and foresight? And if the engagements he has entered into, appear, when laid before us, to be for the public good, is it not our duty to make them good? But the hon. gentleman who moved this Address, did not satisfy himself with this general restriction; for his design seems to be, to confine our promise upon this head to that single engagement with the duke of Bavaria, mentioned by his majesty in his speech from the throne. I cannot therefore comprehend, why the noble lord should give such hard names to the Address proposed: there is nothing like servility in its composition; nor any thing more than what has been usual for many years: we may return hereafter to our ancient dry method of only thanking his majesty for his speech, and promising to raise such supplies as we may find necessary for our own and his security; but such a general and cold Address would be very imprudent at present, as there are several disputes yet to settle, and several measures to be concerted for establishing the present happy tranquillity, because it might defeat every thing that remains to be done, and render fruitless every thing that has been done. Therefore, I hope the Address proposed will be agreed to without any amendment.

Mr. *Henry Bathurst*:

Sir; I wish the hon. gentlemen who

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support this Address, had given us a definition of what they call servility; for I have always taken flattery to be servility, and I think it must be deemed so by all those who allow, that there can be any such thing as servility in words or language. Now, if there be no flattery in this Address, I am sure there was never any such thing in words; for we not only make high encomiums, without knowing whether they be true or false; but we express those encomiums in as high a stile as our language will admit of, for which I appeal to almost every sentence in the Address proposed. We must not express our acknowledgments to his majesty, without calling them our warmest acknowledgments: we must not talk of his majesty's endeavours, without calling them unwearied endeavours. Thus I could go on, Sir, with my remarks through the whole of the Address; and all this, without knowing any thing of the facts we thus so highly extol. How a minister might receive such high-flown compliments without knowledge, or how this House may think proper to express itself upon the occasion, I do not know; but I should be ashamed to express myself in such a manner to my sovereign; nay, I should be afraid, lest he should order me out of his presence, for attempting to put such gross flattery upon him. I say, gross, Sir; for flattery is always gross when expressed in plain language, and by every man of true taste must be received with indignation, when it proceeds from a person quite ignorant of what he so highly and so coarsely applauds.

The opposition to this Address, Sir, is not founded on knowledge from our newspapers, or knowledge of any other kind: it is founded upon our want of knowledge, and upon the opinion which our agreeing to it must give to the whole world, of the low servility of this assembly. I shall grant, that if in our Address we must echo back the speech from the throne, with fulsome panegyrics upon every measure mentioned therein, no man but the prime minister can propose our Address; and it is very well known, that ever since this custom was introduced, the prime minister for the time being has always been the original author or drawer up of the Address of this assembly. The assembly at the Cockpit, the eve of the parliament's meeting, is now become a sort of establishment: what is designed by the minister as the Address, is there concerted, and the heads of it given to two of the ministerial minions to move and second it next day in this assembly, where it has always, since I knew the world, been agreed to with very little alteration. Whether this method has been practised upon the present occasion, I shall not say; but as I think it inconsistent with the dignity of this House, I wish an end were put to it; and the surest way of doing this would be to return to our ancient method, which was to desire our Speaker to draw up such an Address as he thought proper for the occasion; for if you, Sir, were to draw up our Address for us, I am very sure it would not be drawn up according to the direction of any minister, nor would it be crammed with fulsome panegyrics upon our late measures. It would be such an one as would be worthy of a British parliament to present, and a British sovereign to receive.

As to the Address now under consideration, it cannot be supposed to be the work of any one minister, for it is well known, that at present we have two sets of ministers; and though they do not always so cordially concur, yet they have, I believe, concurred in this, and consequently, I must look on it as the joint production of the two sets, contending which shall treat us the most haughtily, which shall render us the most servile; for if it be servility to applaud measures we know nothing of, to applaud measures we have great reason to condemn, our agreeing to this Address will, I think, be as strong an instance of it as we can give. I have already said, Sir, that the opposition to this Address is chiefly founded upon our want of knowledge, by which I mean parliamentary knowledge, which is certainly the only proper foundation for any parliamentary resolution; but this cause of opposition must be rendered still much stronger, when all the other sorts of knowledge we have, operate against the resolution proposed; and this is really the case at present. When the people without doors read that sentence in the Address proposed, by which we express our warmest acknowledgments for his majesty's unwearied endeavours to establish the present happy tranquillity upon the surest foundation, will they not suppose, that we not only knew what the foundation aimed at was, but also that we thought it the surest that could be thought of? Yet neither of these suppositions will be right: we have no proper knowledge of the foundation

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aimed at; and from the imperfect knowledge we have, we must judge it to be the election of an infant for king of the Romans, which, in my opinion, is more likely to disturb, than establish the present happy tranquillity; because it will be a step towards overturning the present constitution of the empire, by rendering the imperial dignity hereditary instead of being elective. The constitution of Germany has provided vicars for the government of it, during a vacancy of the imperial throne, but it has provided no regents, protectors, or guardians for a minor emperor, because it was never supposed that a minor would be chosen; and if such an one were to be chosen, there are so many things to settle both before and after the election, that I doubt if it be possible to bring it about. The attempt to chuse an infant for king of the Romans will therefore, I fear, raise disturbances; and should it be possible to succeed, it will be found but a sandy foundation, in case the emperor should die before that infant's coming of age. Therefore this is a measure which I do not think worth the risk, the pains, and the expence of the execution; and consequently I cannot, in my present way of thinking, agree to bestow any encomium upon it.

Now, Sir, with regard to our treaty with Spain, I was surprised to hear an hon. gentleman say, that by the breaking out of the war the obligations were cancelled, which the crown of Spain lay under to repair the losses of our South-Sea Company, and of our plundered merchants: it is the first time I ever heard, that a man's refusing to do justice cancelled the obligation he lay under to do justice, or that a man's suing for payment of a bond cancelled the debtor's obligation to pay it. I shall grant, that a nation going to war for recovery of their right, may meet with such misfortunes in the war, as to make them glad to renounce it in order to obtain peace; but unless they renounce it, their right continues the same. By the treaty of Aix-la-Chapelle, bad as it was, we renounced none of our rights: on the contrary, they were confirmed by the confirmation of former treaties; therefore, until the conclusion of this last treaty, the obligations which the crown of Spain lay under both to our South-Sea Company and our merchants, stood in full force: and if we had the advantage in the war, as the hon. gentleman alleges, it was an argument for our insisting upon our right, not for renouncing it, without a sufficient compensation, which, I am sure, 100,000*l.* is not, especially as we at the same time renounced our remaining term in the Assiento contract: but this the hon. gentleman says was worth nothing: I doubt much if our merchants will say so; at least, I think, we should have their opinion before we congratulate upon the conclusion of this treaty.

Besides, Sir, from what we know of this treaty, we must suppose, that all the particular differences between the two nations are not settled, unless it be understood that all our other claims are thereby given up, which I suspect the court of Spain will insist on; and that they inserted in this treaty the article relating to Tortuga for this very purpose. From that article they will insist, that every claim not mentioned in this treaty was by us given up, and consequently, that we have given up our right to cut logwood in the bays of Honduras and Campechey, and our right established by former treaties, to trade with the natives in every part of America, where the Spaniards have no forts or settlements. I shall therefore expect very soon to hear of our being driven not only from those bays, but from the Musquetto shore, where we have had settlements, and where the inhabitants have acknowledged themselves subjects of Great Britain for many years.

And as to the article of 'no search' in the open seas, I must still, Sir, think it an article of great consequence: I must still think, that the parliament was in the right to advise its being insisted on as a preliminary to any treaty of peace; and an hon. gentleman's having altered his opinion, or saying that he is now ten years older, will not convince me that the advice is wrong. I have considered it coolly as well as he, and the more I do consider it, I am the more fully convinced of its being absolutely necessary for us to insist upon it. Great quantities of what the Spaniards call contraband goods, are often brought to Jamaica and our other settlements, by permission of the Spanish governors, in exchange for provisions carried to them, and without which their settlements would sometimes be in danger of starving: shall we allow our ships to be seized and confiscated for bringing those goods from our own settlements to Great Britain? We therefore ought to insist upon it, that no ship shall be seized and confiscated, without a full proof of her having been carry-

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ing on a prohibited trade, nor, any ship searched at sea, unless from her papers, or otherwise, there appears a strong suspicion of her having been concerned in such a trade. Visiting we may admit of, but not searching; for even in time of war, searching without full grounds of suspicion, is never allowed for preventing the carrying of warlike stores, or other contraband goods, to an enemy; and the manner of visiting is by many treaties between nations prescribed, which may be made the groundwork of an explanation between the Spaniards and us; for some new explanation is certainly necessary for us, though not for them. Our right to a free navigation in the open seas of America is no encroachment upon any right they have by the laws of nature or of nations, nor can it ever be prejudicial in any degree to them; but the right they contend for is an encroachment upon the right we have by the laws of nature, and a right which subjects us to daily insults and injuries: therefore they may go on confirming former treaties without any new explanation, as long as we suffer them to enjoy this injurious encroachment. But ought we to do so? Ought we not to insist upon such an explanation of former treaties, as will put an end to this injurious encroachment? Ought we not to insist upon this as a preliminary to any future treaty? If other nations submit to it, because they do not suffer much by it, must we continue to submit to it, who have suffered so much by it, and are likely to suffer every day more and more?

Sir, we are in the same case with regard to the French: they are daily encroaching upon us, they are daily disturbing us in possessions that have been yielded to us by the most solemn treaties; and while we allow them to go on, they will certainly continue to negociate with us as long as we please. The Spanish ministers may cajole us with assurances of their sincere disposition to restore the ancient friendship between the two nations: the French may cajole us with declarations of their sincere inclination to preserve the peace; but do not their actions every day indicate the contrary? A British minister may have his reasons for suffering himself to be cajoled; but what reasons can a British parliament have? Will not the whole world laugh us to scorn, if by our Address upon this occasion, we seem to put any faith in the assurances of the former, or the declarations of the latter?

Lastly, Sir, as to this treaty with Bavaria, as I have some reason to believe it to be a subsidy treaty, I shall consider it accordingly; and the hon. gentleman, who first spoke in favour of it, furnished me with an unanswerable argument against it, which is that of the subsidy being more than we can spare; for unless we continue the land-tax at 4*s.* in the pound, I will venture to say, we cannot spare a shilling to any prince in Germany, without sacrilegiously seizing upon the Sinking Fund; and when our landed gentlemen have so long paid 4*s.* in the pound, when the imposition of 1*s.* in the pound has raised such a combustion in France, will any gentleman dare to propose the continuance of 4*s.* in the pound here, for the sake of bribing the princes of Germany to do what? To preserve the freedom and independency of their native country: I say, princes of Germany, Sir, because this subsidy to Bavaria will signify nothing, unless we take half a score more of them into our pay; and when we have done so for seven years of peace, they may give us the slip, as others have done, as soon as a war breaks out. The hon. gentleman may talk of princes pursuing their present interest at the risk of ruining their posterity: I am sorry to say, that too many private men do so, as well as princes; but if the princes of Germany will, we must even let them do so, and resolve to take care of ourselves; for it would be madness in us to ruin our posterity for the sake of preserving theirs.

To conclude, Sir, we have no proper knowledge, on which to found the Resolution proposed, and all the knowledge we have must militate strongly against it. The Speech from the throne can be no foundation for our passing any compliments upon past measures; because such speeches always have been, and always ought to be, looked on as the speeches of the ministers; and we know, that ministers have not always such a strict regard to truth, as can warrant our taking the real state of our affairs from the gloss they may be pleased to put upon them; therefore I shall be for agreeing to the Amendment proposed by my noble friend.

Mr. *Horatio Walpole,* sen.

Sir; the term servility has, I find, been much insisted on by all the gentlemen who oppose our agreeing to the Address proposed; but, in my opinion, the truth can never justly be called servility:

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if the fact be true, the expressing of that fact, though in the plainest language, can never be said to be servile; and if the compliment, or the fact, upon which it is founded, be false, though dressed up in the highest metaphor or allegory that can be invented by the most poetical fancy, it must be allowed to be servile: it cannot then, indeed, be called fulsome; but in the language of parliament we ought, I think, to avoid the poetical stile, as much as, I hope, we always shall do the servile. Upon this principle let us examine the expressions made use of in the Address proposed, and if we do, we shall find, even from that knowledge which every gentleman of any figure in this country must be master of, that the facts referred to are not only true, but that they deserve what is proposed to be said of them.

Whatever some gentlemen may be pleased to say, Sir, of the present tranquillity, I believe, there is not a gentleman in England, especially among those concerned in trade, that will not allow it to be better than a dangerous and expensive war: in this respect therefore it may be called a happy tranquillity; consequently, it is right and wise in his majesty to endeavour to preserve and establish it; and every one who has in the least attended to our late public transactions, must know, that this has been his majesty's constant and unwearied endeavour ever since the peace at Aix-la-Chapelle. Does not this, Sir, deserve the warmest acknowledgments of our gratitude? Can it be servility to declare that it does? Is there there any thing said of our late treaty with Spain, from whence an approbation thereof can be inferred, in case, upon enquiry, it should be found not to be such an one as has been represented to us in his majesty's Speech from the throne? In such a case, may we not freely censure it, notwithstanding any thing now proposed to be said of it? Sir, we may censure not only the treaty and the negociators of it, but those also who advised his majesty to represent it in such a light to us. On the other hand, should the account we have of it be exactly true, as I am convinced it is; and should there be good reason to believe, that his present Catholic majesty is so just to his own people, as to be well inclined towards this nation, have we not cause to rejoice? Can any Englishman, who understands the true interest of this kingdom, refuse to congratulate his country, as well as his sovereign, upon such a happy turn in the disposition of the court of Spain?

This, Sir, is a turn which we could never have expected during the life of the late king of Spain, nor would he ever have agreed to such a treaty: he had always a view of succeeding to the crown of France, and was therefore always influenced by French councils. Besides, his measures were all governed by his Parmesan queen, who never bore any good-will to this country, since we defeated her favourite project of driving the Austrians out of Italy; and whilst she entertained such a project, and the king her husband had such a view, we could never hope for any true friendship with the court of Spain, because by this means they were both led into a dependence on France, notwithstanding its being so inconsistent with the true interest of their own kingdom, though not now near so inconsistent as it was formerly; for whilst the Spaniards were in possession of the Netherlands and a great part of Italy, they were under a necessity to court the friendship of this nation, for defending them against the French, who were continually forming projects for wresting some of those dominions from thom; but by the infamous treaty of Utrecht the crown of Spain was at once stript of all those dominions, which were given to the House of Austria; and this not only put an end to the jealousy which the court of Spain had always before entertained of France, but laid a foundation for a lasting contest between them and the House of Austria.

However, Sir, it is still the interest both of Spain and of this nation to be well with one another, both on account of trade, and on account of our respective dominions in America. As to trade, a free intercourse is certainly advantageous to both nations; for we have always got at least 450,000*l.* annually, upon the balance of our trade with Spain; and there is no nation in the world that takes off and consumes so much of the native produce of Spain as this nation does. With most other nations, especially in their trade with France, they must pay ready money for all they take, without having thereby any vent for their native produce; but in their trade with this country, they pay only the small balance I have mentioned, and they thereby find a good market for almost all the native produce they can spare. This shews the wisdom of our prohibiting the importation of any Spanish commodities, a very

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few excepted, during the late war; for the want of these things was of very little inconvenience to us, but all the grandees of Spain, or what we call the landed interest, were by that prohibition almost ruined, as they could no where else find a foreign market for any of the produce of their estates, and their home consumption was not near sufficient for taking off all that was brought to market.

Then, Sir, as to our respective possessions in America, it is not the interest of either nation to encroach upon the other's possessions; and though it is the interest of the court of Spain to prevent a smuggling trade, yet a trade by licensed ships with our colonies is sometimes necessary for the support of theirs, and at all times very convenient for ours. An intercourse of trade, even in that country, is therefore useful to both, and both of us have great reason to be jealous of the French, who are daily endeavouring to encroach upon the Spaniards as well as upon us. Nay, they have of late years possessed themselves of the greatest part of Hispaniola, which is the chief and the best island belonging to Spain in that part of the world. Therefore, if the Spaniards would unbiassedly consider their real interest, and closely adhere to it, they would lay aside all thoughts of recovering their former possessions either in Italy or the Netherlands, and cultivate a constant friendship both with this nation and the House of Austria, in order to guard against France, which is the nation that can most sensibly hurt them, and the only nation that can of itself incline to hurt them, either in Europe or America. This I will maintain, Sir, to be the true interest of Spain; and the treaty they have lately concluded with us, gives me hopes, that they now begin to see their true interest, and that the assurances his Catholic majesty has given are sincere; consequently, I must think, that no objection ought to be made against this part of the Address proposed.

These are my hopes, Sir, and if these hopes appear to be well-founded, we have not much to fear from any event, that may hereafter threaten Europe with a war; but how any gentleman can suppose, that these events are unknown, I cannot imagine. Sir, they are known, I believe, at every coffee-house in London: the only two events, that, in all human appearance, can for many years tend to involve Europe in a war, are, the re-establishment of despotic power in Sweden, and the death of the present emperor of Germany before the election of a king of the Romans; for if neither of these happen, the ambition of France can have no solid ground to work on, nor will that nation venture to attack or openly encroach upon any of its neighbours, especially if the Spanish nation should open its eyes, and begin to cultivate a thorough friendship with Great Britain and the House of Austria. These are, therefore, the only two events that are to be guarded against, and how are they to be guarded against? As to Sweden, certainly the best method is to propagate a just sense of liberty among the people of that kingdom, especially those of the army; and, in conjunction with Russia, to assure the patriots of that country a present support, in case their liberties should be openly attacked or secretly undermined. I do not mean by patriots, Sir, those who have liberty in their mouths and nothing but ambition or resentment at their hearts: I mean those who submit quietly to an established free government, whilst nothing is attempted contrary to law; but are ready to draw their swords as well as open their mouths, as soon as they think their happy establishment in any real danger. Of this kind, I hope there are multitudes in Sweden; and every one knows, that his majesty, in conjunction with Russia, has omitted nothing that might tend to increase their number.

Then, Sir, with regard to the emperor's death before the election of a king of the Romans, is there any thing more certain than that the best way to guard against the consequence of that fatal accident, is to bring on that election as soon as possible? Suppose the person proposed to be chosen be an infant, yet even the choice of such a person would prevent an intestine war in Germany, or at least render every prince of the empire that opposed his being set upon the imperial throne, guilty of high treason, and liable to forfeit all the possessions and dignities that belong to them in the empire; which is a crime and a forfeiture they are never exposed to by opposing, even by force of arms, a new election, or a disputed election. The choice therefore even of an infant for king of the Romans, would be a great security against any intestine war in Germany, in case of the death of the present emperor: and from experience, as well as reason, we must conclude, that France will always be cautious of sending any of her armies into Germany, unless she is sure of being sup-

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ported by some of the members of that formidable body. As to the difficulty of settling the guardianship and regency, in case a minor should be chosen king of the Romans, I believe, it will be easy to settle that and every other point, provided the settlement be made during the life of the present emperor; but should it be delayed till after his death, I am persuaded no settlement of any kind could be made without an intestine war in Germany, which would give the French a new opportunity of spreading the flames of war all over Europe, and, probably, by sending the young Pretender hither, of extending again the conflagration even to the bowels of this country; for if that young spark lives, I believe, he will refuse no opportunity, however dangerous, of vindicating what he impudently calls a right derived to him from his ancestors.

Thus, Sir, it must appear evident to every gentleman who does not wilfully shut his eyes, that the speedy election of a king of the Romans, or the engaging as many as possible of the electors to concur with his majesty in that election, in case the present emperor should unfortunately die before it can be brought about: I say, this must evidently appear to be the surest foundation, upon which the present happy tranquillity can be established, and the best method for preventing that event, which would unavoidably involve Europe again in the calamities of war; and our late treaty with Bavaria must certainly be allowed to be a most necessary step towards attaining this desirable end, especially if we consider that the Bavarian family has long been engaged in an interest opposite to that of the House of Austria, and is a family of great consequence in Germany, by being, according to its constitution, one of the vicars of the empire, in case of an interregnum, and, consequently, would have a right to a share of the regency, in case of a minority. Our gaining that prince is therefore not only a great, but a double advantage, as it is gaining a most useful friend to ourselves, and drawing off from the common enemy a friend that has been, and might still be of great service to him; consequently, it is hardly possible to conceive, how our treaty with that prince can be a bad one, or how it can produce any untoward effect. But, said the noble lord, our making such a stir by thus engaging in new treaties, and granting new subsidies, will put our natural enemies upon forming new alliances likewise. Sir, can we suppose, that our natural enemies will ever be at rest, or cease their endeavours to breed disturbances in Europe, especially in Germany? It is their business to sow dissensions among the princes of that empire: it is ours to preserve concord and unanimity among the several members of that powerful body; and should we neglect our duty, we may depend upon it, that our natural enemies will never be deficient in theirs: consequently, an exact performance of our duty may prevent the success of their attempts, but can add nothing to their diligence in attempting; and, remote as Spain is from Germany, yet a thorough reconciliation and good correspondence between the courts of Madrid, Vienna, and London, would contribute greatly toward rendering ineffectual all attempts to raise an intestine war in Germany, as it would render it much more dangerous for any of the princes thereof to transgress the laws of the empire, which have provided a legal method for terminating all disputes among themselves, without having recourse to arms.

This, Sir, among many others, is a good reason for our endeavouring, by all means, to put an end to every dispute we have with Spain; and if we should recede a little from what we may justly pretend to, it would, in my opinion, be the height of wisdom; for I am convinced, it would be better for us to yield in many points to Spain, than to be obliged to yield in any one to France. If this had been well considered ten or a dozen years ago, there would not have been such an outcry raised against the Convention then concluded with Spain; but time and experience have since opened our eyes, and corrected our judgment; for I believe, there are now ninety-nine out of an hundred, who wish that the plan of that Convention had been pursued, and the war between the two nations prevented, which has given the French such an opportunity to rivet themselves in all the branches of the trade with Spain. And how our Assiento contract should now be deemed such an advantageous bargain, I cannot comprehend; for the negro-trade was always thought an unprofitable trade, which in the very treaty itself is assigned as the reason for giving us an annual ship; and I very well remember since that ship was represented as a very great inconvenience to this nation, as the Spaniards had thereby always in their hands a security for our good behaviour, which prevented our shewing a due re-



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sentment, when they delayed doing us justice with regard to any dispute that happened between the two nations.

In order to shew, Sir, that the present is not to be called a happy tranquillity, the gentlemen who oppose this motion, have inconsiderately been led into a most terrible representation of the encroachments now making upon us by the French, both in the West-Indies and in North-America: I say, inconsiderately, because it is the strongest argument that can be made use of in favour of our late treaties with Spain and Bavaria, and in favour of the Address proposed. If those encroachments be such as may justify a war between the two nations, surely we should neglect nothing that may contribute towards convincing France, that she will, probably, have the worst of it in case of such a war; and is there any thing more proper for this purpose, than our shewing that there is a perfect concord between his majesty and his parliament, and that we have an entire confidence in the wisdom of our sovereign, or, if you please, the wisdom of the ministers he thinks fit to employ. For this reason we should, upon the present occasion, be more complaisant than usual, instead of being less so; and if France finds that there is a thorough reconciliation between us and Spain, and that there is no probability of her being able to raise any disturbances in Germany, she will certainly be wise enough to give up all her encroachments, rather than provoke a war, in which she must stand single and alone against the greatest part of Europe.

I hope, I have now shewn, Sir, that even from the knowledge which every gentleman must have of the present circumstances of Europe, we could not refuse an express approbation both of the late treaty with Spain, and of that with Bavaria, were such an approbation desired by the Address now proposed; but as no such thing is desired, as we are not desired to promise to make good any engagements, but such as shall appear to us to be for the public good, as the Address proposed requires nothing more than a dutiful and complaisant return to his majesty's Speech from the throne, and as our present disputes with France, as well as many other circumstances, render it prudent for us to be as complaisant to our sovereign, and as unanimous amongst ourselves, as possible, I think there can be no reason for any Amendment; therefore, I hope, the noble lord will withdraw his motion, that the Address proposed may stand upon our Journals, with a *nemine contradicente*.

Sir *John Hynde Cotton*:

Sir; when we talk of servility of expression, we ought to consider the persons who are to judge of it, as well as the persons who speak; and if we do, we must admit that even the truth may be expressed in a servile manner, and that the highest favour that can be conferred may be acknowledged in such surfeiting terms, as no gentleman would make use of, nor any man of taste receive, without a severe rebuke. A submissive sort of language, that would be but a due respect from a low sort of servant to his master, would be in the highest degree mean and servile, if made use of by one gentleman to another, or even by a subject of any rank to his sovereign. And with respect to the people that are to judge of the expression, a sort of language to our sovereign, which by the people of France would be deemed loyal and dutiful, would by the people of England be deemed low and servile, if they have any thing left in them of that noble and great spirit, which animated the breast and directed the tongue of their ancestors.

From the whole tenor of this Address, Sir, I am convinced, that it was originally the draught of our ministers: they call themselves the servants of the crown; and I find their stile of language to their sovereign is much the same with that which a menial and mercenary servant would make use of to his master; but they should consider, that as members of this House, they are not the servants, but the subjects of the crown, and that as such they should talk to the king, not as slavish and sycophant Frenchmen, but as free-born and sincere Englishmen; for I had rather that all France should look upon our Address as disrespectful, than that one Englishman should think it servile and fawning. It is the opinion of our own countrymen only that we are to regard, and if I have any knowledge of the temper and manners of my countrymen, I must conclude, that every man in England who is not a servant of the crown, will look upon this Address as inconsistent with the dignity, and beneath the character of this august assembly.

For this reason, Sir, if I had no other, I should be against our agreeing to the Address; but I have many other reasons; for, from all the knowledge I as yet have, I must disapprove of every foreign measure



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mentioned or referred to therein. Let the present tranquillity of Europe be what it will, I think we have no business to trouble our heads about preserving it, as long as we can preserve our own: we have never been in quiet, or without a monstrous expence, since we took it in our heads to be both the war-makers and peace-preservers of Europe; and it will always be the same, whilst we pursue that chimera. The hon. gentleman who spoke last, has found out an objection to the infamous treaty of Utrecht, as he calls it, which I never heard before: he says, that Spain has not now so much reason to be jealous of France, or to court the friendship of this country, as she had when possessed of her dominions in Italy and the Netherlands, which she was stript of by that treaty. Whatever that gentleman may think now of that treaty, I am sure, that was none of the reasons why he and his friends opposed it so much at the time it was concluded; and I shall readily agree with him, that after the death of Lewis 14, and the seizing of the regency by the duke of Orleans, which effectually divided France and Spain, we had no business to prevent Spain from recovering what she formerly possessed in both those countries; but then how will he answer for our defensive alliance with the emperor in 1716, which was the origin and true cause of all the broils we have since had with Spain? How will he answer for the quadruple alliance, and many other treaties and conventions negociated by him and his friends since that time; all of which had the *uti possidetis* for their chief aim, and some of which cost this nation infinite sums of money?

But, Sir, there is a very great difference between our not preventing Spain from recovering her possessions in Italy and the Netherlands, and our yielding to her our own rights and possessions; yet this we have evidently done by the late treaty, according to all the accounts we have of it. Before the late treaty of Aix-la-Chapelle we had a right to ten or a dozen years in the Assiento contract and annual ship, because of the interruptions Spain had given to our enjoying that contract: by that treaty, which many people think more infamous than the treaty of Utrecht, we gave up all but four years; and now by this last treaty we have given up that too, and also our right to reparation for the many depredations committed in time of peace upon our South-Sea Company and merchants, and all for the poor consideration of 100,000*l*. And what is of much more consequence, we have tacitly given up our right to a free navigation in the American seas; for suppose that a confirmation of treaties should in English mean a confirmation of that right, I am very sure, that in Spanish it will mean the very reverse; and the misfortune is, that the Spanish meaning is most consonant to reason and the nature of things. Our right to a free navigation is not founded on treaty; it is founded on the law of nations: but the Spaniards say, we have by treaty given up that right, so far as is necessary for preventing a contraband trade with their settlements; therefore a confirmation of former treaties must be understood to be a confirmation of the right they have acquired by treaty, but can never be understood as a confirmation of our right which is not founded upon any treaty.

For this reason, Sir, we ought not, according to the advice of parliament, to have concluded any treaty with Spain, without an express acknowledgment of our right to a free navigation in the open seas of America; for it was not youthfulness that made me coneur in that advice, and the older I grow, I am the more convinced that I was right; which perhaps may be owing to my being still on the same side of the House I was on at that time. That there is no such acknowledgment in this late treaty, I am well convinced, because, if there had, I am very sure, his majesty would not have neglected to have mentioned it in his Speech from the throne; and as there is no such acknowledgment, instead of congratulating his majesty, I must condole with my country, on the conclusion of this treaty with the king of Spain. The hon. gentleman says, it is better to yield in several points to Spain, than in any one to France. What occasion have we, Sir, to yield in any material point to either? If we once begin, there is no end of yielding. We must next yield up Gibraltar and Port Mahon: then we must yield up our settlements upon the Musqueto shore in America, and our right to cut logwood in the bays of Honduras and Campechey: after that we must yield up Jamaica and the Bahama islands; and last of all, if there can be a last in yielding, we must yield up our provinces of Georgia and South-Carolina; for all these the Spaniards now claim a right to; and, for what I know, they may then begin to lay claim to all our plantations in America. And all these concessions we must make, Sir,

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for the sake of getting Spain to join with us in preserving the tranquillity of Germany, besides bribing the princes thereof not to cut the throats of one another.

Sir, we all know, that our money has always had great weight in Germany; but if we ever think of extricating this nation from the debts and taxes it groans under, we must conclude that we have no more of that weight to bestow; and these subsidy treaties, of which this with Bavaria is but the first, will very probably furnish France with a pretence to interfere more openly in the affairs of Germany than she does at present. We may remember, that our calling for the Danish troops just then taken into our pay, and their marching towards Hanover, furnished France with a pretence for pouring her armies into Germany, which, if it had not been for a miraculous intervention of Providence, would have entirely ruined the House of Austria. I shall not say that France, after she had procured an alliance with Prussia, would not otherwise have sent her armies into Germany; but our beginning to bring foreign troops into that country, gave her a pretence, which imposed upon many of the princes of Germany, and prevented their resenting this invasion of their country. We know that France is one of the guarantees of the treaty of Westphalia, and consequently of the liberties and constitution of the German empire: our thus giving subsidies to the electors, may furnish her with a pretence, that we are going to oppress the liberties of Germany, by means of bribery and corruption; and that she is obliged to take upon her the defence of the liberties of the Germanic body against such scandalous attempts.

I am, therefore, of opinion, Sir, that with regard to the election of a king of the Romans, we ought to have left the German princes entirely to themselves: in common prudence we ought not to have openly intermeddled, especially by that of granting subsidies; because it will render the election contested, should we succeed in our project; and as little do I think, that we ought to intermeddle in the domestic affairs of Sweden. I hope his majesty no way concurred in that message or memorial lately sent by the Russian court to that of Sweden; for such a message I think sufficient to provoke the Swedes to throw themselves again under despotic power, had they otherwise no inclination to do so. If France should send such a message to this court, threatening us with an attack, in case we should attempt to vest our sovereign with absolute power, it would with me be a prevailing argument to cooperate in such a design, not only out of resentment, but because I should from thence conclude, that an absolute government would render us more formidable to that nation, and more capable to defend ourselves against its attacks, than the government we now live under.

But, Sir, the untimely death of the emperor, or the establishment of despotic power in Sweden, are not the only events that may involve Europe in the calamities of war; the death of the king of Poland, an attack from the Turks either upon Russia or Hungary, or even the disputes we have with France, may have the same effect. I could mention several others: it is impossible to guard against them all; therefore the wisest course we can take, is to save as much money as we can during the tranquillity, let it be happy or no, which we enjoy, in order to pay off as much as we can of the national debt, that in case any new war should happen, we may, if necessary, engage in it with fresh credit; for to the joy of all usurers, it may be foreseen, that every future war we engage in must be carried on upon credit, and not by the annual supplies, because of these, without oppressing the landed interest, we have hardly enough left to support our government in time of peace.

From what I have said, Sir, gentlemen must see, that according to my way of thinking, I can neither make acknowledgments nor congratulations upon any of our late measures; and I am sure, no man who recollects the declarations of France upon the death of the emperor Charles 6, can express hopes, much less 'well grounded' hopes, from any declarations that court can make; and most of the courts of Europe now begin to follow their example. Thus, Sir, you see, that I can join in no part of what has been proposed to be left out, by the noble lord who spoke first in this debate; therefore, I hope, and am persuaded, he will insist upon his motion, in which he shall have my hearty concurrence.

Mr. *Samuel Martin:*

Sir; I shall not trouble you much with the servility of the Address proposed: all I shall say upon that subject is, that if an indigent author, to whom I had before been very bountiful, should dedicate a book to me with a dedication so full of



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plain and fulsome flattery, I should be apt to toss his dedication into my fire, and himself out at my window; for I will maintain it, that there is not an epithet made use of in this Address, but what is notoriously false, or such an one as we have no authority to make use of, either from parliamentary knowledge, or any other sort of knowledge; for I must insist upon it, that the speech from the throne, which must always by us be considered as the speech of the minister, can be of no authority for us to give a laudative epithet to any public transaction. The hon. gentleman who spoke last on the other side of the House, was pleased to say, that the present tranquillity is better than a dangerous and expensive war, and in that respect may be called happy. I shall most readily grant, Sir, that any sort of tranquillity is better than such an ill-concerted and worse-conducted war as the last was; but I must deny, that in that respect it can be called a happy tranquillity; for then every tranquillity must be a happy tranquillity; but surely there are different sorts of tranquillity, and can we call the present tranquillity happy, when we know that the Spaniards are every day seizing and confiscating our ships in the West-Indies, and the French carrying on an open war against our infant colony of Nova-Scotia?

This, therefore, is an epithet which is notoriously false; and though I make no doubt of his majesty's application, or of his judgment as to the foundation on which the present tranquillity may be most securely established: yet I am very sure, that we have not authority, from any sort of knowledge, to say, that the endeavours of his ministers have been unwearied, or that the foundation they have chosen is the surest. Then with regard to the treaty with Spain, if it be such as we have had in our newspapers, and I have some reason to believe it is, I am surprised how any minister could say, that any particular differences between the two nations have by this treaty been settled, unless it be those we have tamely given up; for besides the Assiento contract, and our South-Sea Company's demand upon the king of Spain, there is no difference settled, but what was before fully settled by the Treaty in 1715, which treaty was, I hope, confirmed by the general treaty of Aix-la-Chapelle; for by that treaty in 1715, the Pie del Fardo, now so much boasted of, was established, and our right to gather salt in the island of Tortugas was acknowledged. In short, there is no one particular difference adjusted by this new treaty, but what had been adjusted by the former, except as I have said, the Assiento contract, and the debt due by Spain to our South-Sea Company, both which we have given up for the trifling sum of 100,000*l.* I say, trifling, Sir; for it must be deemed so, when we consider the value of the company's demand, and that of the Assiento contract even for the four years. I shall grant, Sir, that in the last article of the Assiento treaty it is insinuated, that former assientists had sustained losses; but that was probably inserted as an excuse to the Spanish subjects for his Catholic majesty's granting us an annual ship; or if there was any real loss, it might have arisen from the restraint former assientists were under, as to the ports or places where they were to import and vend their negroes, whereas our Assiento Company were expressly freed from any such restraint; and we can hardly suppose that the importers could be losers, when they could sell their negroes for 300 pieces of eight, which by the treaty seems to be the lowest price they might expect, and it was stipulated, that all the duties to be paid upon importation, should not exceed 33 pieces of eight and one third. Then as to the annual ship, I shall grant, that from the pusillanimous conduct of a late minister, that ship and trade became a nuisance to the nation; but if we had taken care, in our treaties with the court of Spain, to oblige them to make full reparation for the unjust seizures they made, they would not have been so ready to repeat them upon a new rupture; and I am persuaded, that the national gain upon the annual ship alone, would have amounted to near 100,000*l.* yearly, and consequently that it would have been well worth the nation's while to have resumed the trade, though there was, by our concession in the treaty of Aix-la-Chapelle, but four years remaining of the term.

It is therefore evident, Sir, that we should be a little more sparing in our congratulations upon the conclusion of this treaty with Spain, which to me seems calculated for nothing but to amuse the vulgar and ignorant: and I can see no national reason for our engaging to pay any subsidy to the duke of Bavaria; for if the election of a king of the Romans be said to be the reason, if that be the sure foundation upon which the present tranquillity

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is to be established, it is a foundation we must dig for at a vast expence, and, in my opinion, a foundation we shall never find, during the life of the present emperor; because by one of the constitutions of the empire it is expressly declared, that no such election shall ever be made during the life of the then reigning emperor, unless it be unanimously agreed by the electoral college, that such an election is become absolutely necessary for the immediate safety of the empire; and this, I think, we may be assured the present electoral college will never unanimously agree to: the king of Prussia in particular has, for his part, in a manner declared against any such election; and in his letter upon this subject seems to refer to this very constitution.

But, Sir, supposing it possible that such an unanimous resolution of the electoral college could be obtained, I think that our granting upon that account an annual subsidy to any one of the electoral college, is the most effectual way we can take to prevent it; for if we grant a subsidy to any one, every one will expect the same, and will refuse his consent until he has obtained it: and after we have thus taken the whole electoral college into our pay, they will all, for the sake of having the subsidy renewed and continued, put off the election, until after the death of the present emperor; because, should the election be once made, our reason for granting those subsidies must cease, and consequently they must expect that our subsidies will cease also.

For this reason, Sir, I can no way applaud the wisdom or foresight of granting any such subsidy; and if it were possible to bring on an election by such means, it would, in my opinion, give France a just reason for opposing it by force of arms; because, by the most fundamental and essential constitution of the empire, the election of an emperor, or king of the Romans, ought to be free, which no election can be, that is directed by the influence of corruption: nay, in opposition to such an election taking effect, the other two colleges of the diet of the empire would have a right to co-operate with France in having it set aside: and thus, instead of preventing, we should precipitate an intestine war in Germany, in which some of the electors, who had for years been taking our money, might declare war against us; for I am afraid, that the hopes of a present addition of territory, or a present view of the imperial diadem, will always be more prevalent with most of the princes of Germany, than a distant prospect of the good of their country.

As to his majesty's union with his allies, I shall always be glad, Sir, to hear of its subsisting in its full vigour, provided we never think of keeping it subsisting by a sacrifice of the true interest of the nation; and I can see no reason why we should pay for keeping it subsisting, at a time when we have so little money to spare; for we may always be more useful to our allies than they can ever be to us: in case of our having a war with France, we have not one ally that can be of use to us, without involving us in a war upon the continent; and the support of such wars will, I fear, at last prove our ruin; because it makes us neglect prosecuting the war by sea and in America, and because France can always support a war upon the continent at a much less expence than we can. The French armies are mostly composed of their own national troops, have less pay than our armies have, and generally have all their provisions from their own country, or when they march to any great distance, they support themselves at the expence of their enemies. On the other hand, our armies upon the continent are mostly composed of foreign troops, have higher pay than the French have, and besides paying the troops, we must likewise pay subsidies to their princes; to which let us add, that all the provisions for our armies, except clothing our own national troops, must come from foreign countries, and must be paid for by us in ready money. Nay, when we have been so lucky as to penetrate into the enemy's country, I never heard that our armies supported themselves at their expence, or that our generals accounted for the contributions they had raised.

This, Sir, should make us cautious of ever calling upon any of our allies, or attempting to draw them into our quarrel, unless we can form such a confederacy upon the continent, as may be able to carry on the war against France with a probability of success, and without much of our assistance; and the forming of such a confederacy we may render impossible, if we should raise among the princes and states of Europe an opinion of our officiously intermeddling in their affairs, which may be the consequence of our giving ourselves so much to do about the

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election of a king of the Romans. To conclude, Sir, there are so many and such strong objections, against almost every part of the Address proposed, that I cannot but approve of the noble lord's amendment.

The debate here ended, and the question being put, there were 203 for the motion and 74 against it*.

*The Commons' Address of Thanks.*] The Address was then agreed upon, as follows:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, return your majesty our sincere and hearty thanks for your most gracious Speech from the throne.

"We beg leave to congratulate your majesty on your safe and happy return to these kingdoms; and to express the warmest acknowledgments of our gratitude, for your majesty's unwearied endeavours to establish the present tranquillity upon the surest foundation.

"We congratulate your majesty on the conclusion of a treaty with the king of Spain, by which the particular differences, that, from the nature of them, could not be settled in a general treaty, are now amicably adjusted; and we feel the most real satisfaction at the reason there is to hope, from the assurances which your majesty has received, of the sincere disposition of the Catholic king to cement and maintain the most perfect union with your majesty, that the ancient friendship will be restored, and an uninterrupted good correspondence subsist between the two nations, to their mutual advantage and happiness.

"We respectfully acknowledge your majesty's great wisdom and foresight, in taking the best measures timely to prevent such events as might hereafter involve Europe in the calamities of war; and we have the best grounded hopes, from the full and clear declaration of all the contracting powers in the definitive treaty of Aix-la-Chapelle, as well as from your majesty's care and attention to strengthen the ties of union and friendship between your majesty and your allies, that we shall long enjoy the blessings of a general peace.

"We assure your majesty, that we will cheerfully raise such supplies as shall be found necessary, for the security of your majesty's government, and to make good the engagements entered into by your majesty for the public benefit, and according to your gracious intention communicated to this House.

"It is with the greatest satisfaction that we receive your majesty's gracious approbation of the progress already made towards reducing the interest of the national debt; and we assure your majesty, that we will use our immediate endeavours to finish that great work with justice and equity.

"Your faithful Commons beg leave to express their sense of the happiness they enjoy under your majesty's government, and to assure your majesty, that they are determined to give all possible attention to whatever may promote the trade and commerce of these kingdoms; and that they will endeavour to render the laws more effectual by enforcing their execution, thereby to discourage and suppress the outrages and enormities committed in defiance of them."

*The King's Answer.*] The King gave this Answer:

"Gentlemen;

"I thank you most heartily for this affectionate Address. You may depend upon my constant endeavours to preserve the general tranquillity of Europe, and to promote the particular interests and happiness of my people."

*Debate in the Commons on the Number of Seamen for the Year* 1751.*] January 25. In the Committee the following Debate took place:

Lord *Barrington* rose and said:

Sir; as the motion I am to make is, I know, a little unpopular in this country, I must beg leave to give you the reasons that have induced me to think of making it. Œconomy is at all times as beneficial to a society, as it is to a private family; but at present, Sir, it will not only be beneficial, but it is absolutely necessary for this nation. Under that heavy load of debt, which the expensive wars we have been engaged in have brought upon us, it

* "January 17. The Session opened: Long Debate upon the Address: division 74 to 203—mighty simple!" Dedington's Diary.

* From the London Magazine.

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is absolutely necessary to contract every article of public expence, as far as is consistent with our present security, and with the preservation of that tranquillity, which we now so happily enjoy. In time of peace, I believe no man will think of adding to the number of our taxes, or of increasing any one of those we are now loaded with; and every one knows, that all our taxes, except the Land and Malt, are now mortgaged for raising the civil-list revenue, or for paying the interest and principal of debts already contracted. That, indeed, which is allotted for paying off and sinking the principal of our debt, we may now and then, in a case of necessity, make free with, because such is the public credit of this kingdom, that none of its creditors desire to have any part of their principal paid off, notwithstanding the low rate of interest they have now agreed to accept of. But this sacred fund, meaning that we call the Sinking Fund, we ought as seldom as possible to divert from the use for which it was originally intended; and no man will say, that in time of peace we ought to load our landed gentlemen with more than two or three shillings in the pound.

The produce of the land and malt tax is now so well known, Sir, that I need not inform gentlemen, that the former at 3*s.* in the pound, never brings into the Exchequer, clear of all deductions, 1,500,000*l.* and the latter seldom, if ever, above 700,000*l.* therefore we ought to reduce our annual public expence within 2,200,000*l.* or, if possible, within 1,700,000*l.* In these circumstances, I do not doubt but that many gentlemen have been turning their thoughts towards œconomy, and endeavouring to fix upon those articles of public expence, upon which a saving may be made, without risking that security we are now blessed with. Some of these gentlemen I have conversed with, and all I have talked to upon the subject, join with me in opinion, that 8,000 Seamen will be sufficient for the service of the ensuing year; so that we may reduce 2,000 of those we had last year in the public service, which will be a saving of 104,000*l.*

Last year, Sir, it was necessary to have 10,000 for several reasons that do not now exist, some of which I shall beg leave to mention. In the first place, at the beginning of last year it was to be apprehended that pirates might appear in some of the distant parts of the ocean, as has generally happened after a long war, when great numbers of seamen of all maritime nations are disbanded, and cannot find employment in the merchant-service; and as this, had it happened, would have very much disturbed our trade, it was necessary to keep some ships in commission, that they might be ready to sail upon the first order, to intercept and destroy those enemies of mankind; but as none such have yet appeared, we may reasonably conclude, that we shall not now be troubled with any such, and therefore it is unnecessary to keep any ships in readiness for such a service.

In the next place, Sir, we had at the beginning of last year several more ships of war in the East Indies, than we shall now have occasion for; and as those ships could not with any certainty be expected to return before the end of the year, we were obliged to provide for them during the whole, in order to prevent the nation from running in debt, which ought always to be avoided, if possible; for, I think it is much better, at the beginning of every session, to have some public money to dispose of, than to have an account brought in of services incurred and not provided for. In the third place, we were last year obliged to have a good many ships in the Mediterranean, on account of disputes and contests we then had with some of the nations bordering upon that sea; but as these disputes are all accommodated in an amicable manner, or in a fair way of being so, we shall next year have occasion for very few ships in that part of the world.

Thus, Sir, it is evident that the next year's service will not require such a number of seamen, as was necessary during the last; and as less than 10,000 (for we had but 9,800 in actual pay) supplied all our occasions last year, I am persuaded, that 8,000 will be fully sufficient for the year ensuing. Besides, I have taken all possible pains to inform myself of the several services thought necessary in former times of peace, and I find, that with 8,000 seamen we may keep as many and as good station ships, in the East and West Indies, on the coast of Africa, and in the Mediterranean, as have usually been employed in a time of settled tranquillity, and yet may have always 4,000 at home, which would be sufficient for guarding our own coasts, and even for enabling us to fit out a very powerful squadron upon any sudden emergency, because, here at home, we may always, in a few days, add double the number, should it be found necessary.

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In this opinion I am confirmed, Sir, by considering, that in 1725, we had but 5,800 seamen in actual pay; and no gentleman can suppose, that all necessary services were not then fully supplied, when I inform him, that the lord Berkeley, sir John Norris, sir Charles Wager, and Mr. Cockburn, then sat at the Admiralty Board. If, then, so small a number as 5,800 was at that time sufficient for supplying all necessary services, can any one imagine, that 8,000 will not now be sufficient for the same purpose? I know I shall be told of the late great preparations of the French, and their diligent application to the increase of their marine; and I confess, that of late we have been by our Gazettes pretty much amused with these accounts; but those accounts are very much exaggerated; for all they have done yet, can hardly be called a restoring of their marine, after what it suffered in the late war, and there is a very great difference between building of ships, and fitting them out to sea. They must build yet a long time, before they can be upon an equal footing with us; and were they now upon an equal footing with us, as to the numbers and rates of ships, we have no occasion to keep a great number of seamen in actual pay, because it is known, that we can raise seamen, and fit out ships, faster than they ever could, or, I hope, ever will be able to do.

I therefore hope, Sir, that by these phantoms, which are dressed up by our news-papers, in order to amuse their readers, gentlemen will not allow themselves to be frightened into a greater expence than is necessary for the present service, especially as there is not the least appearance that France has any immediate design of coming to a rupture with this nation. Gentlemen should upon this occasion reflect, that if in time of peace we keep up a greater number of seamen than we have any call for, it may disable us from keeping up, in time of war, such a number as may then be absolutely necessary for our safety at home, and the preservation of our dominions in different parts of the world. This, though a distant danger, ought to be a present dread; and will have great weight with every one who considers, that now in time of peace we must pay off a considerable part of our present debt, otherwise we can expect no credit for carrying on any future war. This has with me a weight superior to every other consideration; and will, I hope, be my excuse for moving, "That 8,000 men only be employed in the Sea-Service for the year 1751."

Mr. *Robert Nugent:*

Sir; what the noble lord has been pleased to say to us, seems, to me something like the fabulous Scylla, as described by Virgil, all beauty above, all deformity below; and if what he proposes should be complied with, it will be as pernicious to our marine, as that monster was to the marine of the ancients. His lordship set out with a maxim, which I highly approve of. Œconomy must always be of great service to states as well as private families; and I shall heartily agree to its being absolutely necessary for us in our present distressed circumstances; for distressed I must call them, when it is on all sides admitted, that we can hardly support our government in time of peace, without laying violent hands on that sacred treasure designed for the discharge of our debts. But however necessary œconomy may be to us, I must be of opinion, that what the noble lord advises would be a beginning at the wrong end. Instead of beginning, we should end with, or rather at our navy; for we have already reduced our number of seamen more than we ought ever to do. At least, we should reduce every other article of expence, before we think of making any farther reduction of that which is really the palladium of this country: I mean the number we have of brave and experienced seamen. Other countries may have as many ships as we; and particularly France, if they will be at the expence, may in a few years exceed us in number and strength of ships; but ships of war, without seamen, are like fortified towns without garrisons, only fit to be taken or destroyed by an enemy; and unless it be our own fault, neither France, nor any country in the world, can ever exceed us, or equal us in number of brave and experienced seamen.

This, Sir, is an advantage which we have from nature, not from our conduct; for our late conduct has been such, we have treated our sailors in such a harsh manner, as if we designed to banish from our dominions every man that could pretend to be a sailor; and indeed, considering our methods of pressing, of paying them their wages, and of turning them over from ship to ship, I am surprised that any of our common men ever enter into the sea-service, or into any sort of busi-

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ness that may furnish a pretence for pressing them into that service; for their case is the more grievous, as they live in a country where no other sort of men, above the character of a vagabond, can, even in time of war, be pressed into any service; whereas a man, who has been bred a sailor, may by custom be pressed into the government service, not only in time of war, but as often as a minister takes it into his head to fit out a squadron: and this must always be the case as long as we keep such a small number of seamen in the public service in time of peace; for it is ridiculous to think of any other method for preventing the necessity of pressing, but that of keeping a sufficient number in pay, even in time of peace. The merchants must always have a certain proportion of expert seamen in their service for the safe navigating of their ships, and will give any wages rather than not have them; therefore, when there is a sudden and great demand for such seamen for the public service, the merchants must and will give greater wages than the public can afford to give, consequently we cannot expect that many expert seamen will enter voluntarily into the public, when they can have higher wages in the merchant service; and this must always be the consequence of our keeping a small number of seamen in the public service in time of peace. But if we should in time of peace keep 15 or 20,000 expert seamen in the public service, we should seldom want any from the merchant-service; we should never want above 8 or 10,000, and that number the merchants could always spare, by employing landmen in their stead; so that they would never be obliged to outbid the public, and numbers of expert young seamen would list voluntarily in the government service upon every occasion, if it were for no other reason but for the sake of novelty.

Gentlemen must from hence see, Sir, that the noble lord has put the necessity we are under of keeping a number of seamen in the public service, even in time of peace, upon a very wrong foundation. It is not for protection, Sir, we do so. We have no occasion for protection, when there is neither enemy nor pirate to be met with in the ocean. If protection were the only reason, we should have no occasion for keeping one ship in commission, or one sailor in pay, during a time of profound tranquillity. But the true reason, and indeed the only reason for our keeping any ship in commission, or any sailor in pay, when there is neither enemy nor pirate to be apprehended, is to preserve our character as a maritime power, and to prevent our being reduced to the necessity of that oppressive and pernicious practice of pressing seamen into the service of the government; and will the noble lord say, can any man say, that 8,000 men is sufficient for this purpose?

Sir, I will be bold to say, that 15,000 is not fully sufficient for this purpose: 20,000 expert and able seamen is the least the government should always have in its service; and if we should resolve to have no useless troops at home, nor any princes in our pay abroad in time of peace, nor any sinecure places, extravagant salaries, or unmerited pensions in time of peace or war, I will say, that we might keep 20,000 seamen in pay in time of peace, without ever allowing the annual expence to exceed the annual produce of the malt tax and a land tax of 2*s.* in the pound; for in that case his majesty might spare to apply 100,000*l.* or two yearly out of the civil list revenue, towards supporting our navy, which, I am very sure, would be more effectual for gaining him the good will of his people, the surest foundation of his throne, than double that sum applied towards maintaining a numerous mercenary army; for I hope, no king of this realm ever will, I am sure, his present majesty never did, attempt to have a mercenary parliament.

But, Sir, the loss of our character as a maritime power, and the continuance of our necessity of pressing, are not the only fatal consequences of such a great reduction of seamen; it will always be, and I fear has lately been, attended with a much worse than either; I mean that of forcing our seamen into foreign service; and every one knows, where they will be joyfully received, and better treated than ever they were in their native country. At the end of the last war we had above 40,000 seamen in the government's service; and during the war such a number of young men had been bred up to the sea, that before the end of it, the merchant service was almost fully stocked. We have since the war already reduced above 30,000: and it is impossible to suppose, that one half of them could get employment in our merchant service: it is equally impossible to suppose, that the other half could get any employment at land: what, then, has become of them? Some of them, it is true,



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have miserably perished at Tyburn, or more miserably rotted and starved in our gaols, by the cruelty of our usurers; but the number cannot be very considerable, and therefore I think it highly probable, that they have gone by thousands into the French or Spanish service. Can we imagine that, in case of a war, they would return upon a proclamation? If any of them inclined to do so, they would be prevented; and as to the rest, we should probably find them the most desperate enemies we have to deal with.

Other gentlemen, Sir, may call this great reduction of seamen œconomy; but, for the reasons I have mentioned, I always thought it the height of imprudence; and it is the more unaccountable, as we have shewn no such œconomy in any one other article of the public expence. It is, indeed, impossible to account for our late conduct, or to reconcile what some gentlemen now say, with their way of talking two or three years ago. Those gentlemen were then for keeping up a great number of seamen by land as well as by sea; it is true, they at first proposed but 3,000 of these land seamen, but if their scheme had taken effect, that body of new sort of seamen was soon to have been augmented to 10,000; and it is remarkable, that they had at the same time a scheme for making slaves both of our seamen and soldiers. They then talked of nothing but preserving our superiority at sea, and keeping our navy always in a respectable condition. Pressing was then set in the most hideous light; and this scheme of land seamen was to prevent our being ever reduced to the necessity of making use of such a method for manning our navy. But their enslaving scheme was defeated, and the other shewn to be ridiculous; and now since they find they cannot make slaves of our seamen, they are for having as few of them as possible in the public service. Soldiers are now their only darlings; and therefore we must maintain twice as many of them as we have any occasion for in time of peace, even though we should thereby lose our superiority at sea, the preserving of which has cost us so many millions of pounds, and so many thousands of lives.

I say, cost us, Sir; for the preservation of our superiority at sea was the popular pretence made use of for inducing us to engage so deeply in the war, both in king William and queen Anne's reign. Our taking a number of land auxiliaries into our pay, and raising numerous land armies, was then thought to be the most proper means for preserving our superiority at sea; and now, rather than dismiss our land armies, rather than not have land auxiliaries in our pay, we are to give up that superiority. Really, Sir, if this were not too serious an affair, I could not help comparing it to a scene in the Rehearsal, where the hero employs and bribes the nurse to gain the mistress, and after being at a large expence, neglects the mistress and marries the nurse. I hope, we have not yet played the fool and married our land armies and foreign auxiliaries: if we have not, I think, we should dismiss both, rather than give up our superiority at sea.

Let us consider, Sir, that in case of a war with France, and we should lose our superiority at sea but for one summer, it would be gone for ever. If our enemies were masters at sea, none of our foreign auxiliaries could come to our assistance; and twice the number of troops we have now on foot, would be utterly unable to defend us; for France would by means of her fleet pour in her numerous armies upon us, and as we have no fortified towns, if our army could not keep the field, she would in a few days be in possession of our capital and our seat of government, by which we should be forced to submit to what terms of peace she pleased to prescribe; and those terms would be such as would for ever prevent our being able to recover a superiority by sea. I know it may be said, that our allies and foreign auxiliaries would fly to our assistance, by attacking the frontier of France. From an old proverb, Sir, I have reason to doubt it. 'Help yourself,' it is said, 'and all your friends will help you.' This was lately confirmed in the case of the brave queen of Hungary, now empress of Germany; and I am afraid, that if we did not, as she did, repel the invading enemy, all our friends would stand aloof. But supposing they did in that way endeavour to assist us: we know they are not very alert at sieges; and before they could be masters of one of the French frontier towns, the French armies would be masters of this kingdom. I therefore think, there is nothing more certain, than that our very being, as a free independant nation, depends entirely upon our being always masters at sea; and for this purpose we must have seamen as well as ships. Nay, if we must begin our œconomy with our navy, where, I believe, it will end too, we should,

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I think, begin with our ships rather than our seamen; because we cannot make seamen so fast as we can make ships; and the seamen in the merchant service are never all at our command: many of them are at all times abroad, or at a great distance from our docks; and considering their late treatment, all, I believe, would avoid the service by absconding.

I am therefore afraid, Sir, that if this deduction takes place, we should not be able in some months, to fit out such a squadron as the French may now in a few days put to sea; and no man, surely, can now be ignorant of the French method of beginning a war. The noble lord was pleased to say, that they are now only restoring their marine, and repairing the losses they suffered in the late war. I wish it may be so; but if my information be right, and it is a little more authentic than common news-papers, their maritime force is already much beyond what it was at the beginning of the last war, and they are every day augmenting it with indefatigable industry, and at a great expence. Every one knows this who has any correspondence in France, and it is highly probable it should be so; for the last war has convinced them, that in case of a war with this nation, their commerce and their colonies will always be at our mercy, unless they are at least equal to us at sea. Therefore, I am sure, it is not now a proper time for us to lessen our own, and add to their maritime power, by reducing our seamen, and thereby forcing numbers of them into the French service. What number of seamen we had in actual service in 1725, I do not know: but there were 10,000 voted and provided for by parliament; and if the Lords of the Admiralty took upon them to reduce their number, the then circumstances of Europe was in some measure a justification of their conduct: for France was then under a minority, quite regardless of their marine, and almost at the eve of a rupture with Spain. Can we then be so mad as to make any thing done at that time, a precedent for doing the same thing now? Besides, we all know, that this reduction in 1725 was followed by a most violent press for seamen the beginning of the very next year.

The noble lord was likewise pleased to inform us, Sir, that the whole number voted by parliament was not last year employed. As his lordship has said it, I do not doubt of its having been so; but can it be said, that all necessary services were provided for? We had not so much as one man of war upon the coast of Africa, nor had we one upon the coast of Nova Scotia; for which reason I am resolved to take the first opportunity to move for an enquiry into the present state of those two parts of the world, the care of which is of the utmost importance both to our trade and navigation; and as the French, by means of their Indians, are carrying on a sort of war against us in the latter, I must think it was an egregious neglect to leave it so much exposed. If it be left so for the year ensuing, I shall look upon it as a most wicked design; and in order to obviate every pretence for leaving it so exposed, I must be against the noble lord's motion, but shall not make any till I see how the House seems to be inclined.

Mr. *James Oswald*:*

Sir; the hon. gentleman who spoke last has prevented me, in taking notice of

* "Feb. 11, 1751. Mr. Oswald, with other friends, was with me, who treated me in the most affectionate and friendly manner: told me all his views, and the offers that had been made to him, and concluded by saying, that he wished to act always with me, and that he would accept of the Prince's service, if he might come into it as my friend, and by and through my hands, but that he would not come in by any other hands or canal.

"Feb. 12. Went to wait on his royal highness at Kew—proposed to him the securing Mr. Oswald by my weight with him—the Prince hesitated a little, as having made a trial, some time ago, by another hand without success. At last he allowed the importance of the acquisition, and ordered me to sound Mr. Oswald's disposition towards it.

"Feb. 13. Mr. Oswald dined with me, and agreed to come to Hammersmith the next morning, to settle what report I should make to the Prince.

"Feb. 15. Mr. Oswald came this morning, and was pleased to put himself entirely into my hands, and to rely upon my friendship.

"Feb. 23. Had a conference with his royal highness, and I began with telling him, that on Monday Mr. Oswald was with me, to acquaint me that he had received positive offers from court; he was surprised, and asked me what they were; I told him that Mr. Oswald had been offered to be made Comptroller of the Navy, with a promise that he should have the assistance of all Mr. Pelham's power to reform the abuses of it, and full liberty to follow his own opinion in parliament, and that he came to ask my advice upon it. The Prince, concluding he would accept of the place, said he was glad he should find so honest a man in business. I told him, that, from the many

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the difference between the sentiments, or, at least, the expressions of some gentlemen at present, and what they were for these last two or three years; but as words may be forgot or may be alleged to be misrepresented, I shall beg leave to read to you some parts of the Speeches from the throne, and Addresses of this House, for the last two sessions. In his majesty's Speech from the throne at the opening of the session in November, 1748, his words are these, "and our signal successes at sea must ever be remembered to the glory of the British fleet, and intitle it to the particular attention and support of this nation." To which we answered in our Address, "We are truly sensible of the importance of that signal success, which has attended your majesty's arms at sea, through the course of the war, and are fully convinced how necessary it is to maintain our fleets in perfect strength and order, even in times of the most profound peace." Again, at the opening of the last session, in November, 1749, his majesty, in his Speech from the throne, after having told us, that he desired only such supplies as should be found necessary for the security and welfare of the nation, adds thus: "And in this view I must earnestly recommend to you the maintaining of my fleet in its full strength." To which we answer in our Address, that we would grant such supplies as should be found necessary for the security and welfare of the nation, "which," we say, "cannot be better provided for, than by maintaining the fleet in such a condition, as may enable your majesty to preserve that weight and influence, which properly belong to the crown of Great-Britain."

Sir, we know that in this House the speech from the throne is always looked on, and I believe, very justly, as the speech of the ministers; and I am sorry to say, that for many years the Address of this House upon that occasion may, with the same justice, be looked on as the address of the ministers; we may therefore, from the words which I have read, judge what were the sentiments, or, at least, the pretended sentiments of our ministers at the opening of the last two sessions of parliament; but this last summer, I do not know how, they have taken up quite another way of thinking; for since that time, the security and welfare, the weight and influence of this nation is not, in their opinion, to be provided for, by maintaining our fleet in perfect strength and order, but by strengthening and securing the tranquillity of the empire, and for that purpose, taking most of its princes into our pay; and, in consequence of this their new way of thinking, we find not a word relating to our navy or fleet, either in his majesty's Speech, or the Address of this House, at the opening of this session. Œconomy is now the word, and at the same time that we are throwing away our money upon princes, that may desert, or perhaps declare against us, as soon as a war happens, we must, for the sake of

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reasons I had given him, he declared to me that, as he saw no reformation could be thoroughly and effectually brought about, but by the concurrence of the crown, which was not to be hoped for in our present situation, he had much rather attach himself to his royal highness, for whom only he could hope for that concurrence; but as he was no courtier and had no connections of that kind, he must be contented to do his best in the station that was offered to him. That I bade him seriously consider whether, in case I would venture to sound his royal highness's disposition towards him, he would empower me to say that he would refuse all offers of the court, if the Prince was willing to admit him into his service—That he told me, I positively might: upon which I promised to undertake it. After a good deal of talk, the Prince thanked me, and ordered me to send Mr. Oswald to him at Leicester House on Thursday next.

"Feb. 25. Mr. Oswald dined with me—he told me, he was much embarrassed at what had passed, since he saw me; of which he gave me the following account: Sunday the 17th, sir Henry Ereskine was introduced to the Prince for the first time: on Monday the 18th, Mr. Oswald was with me to settle the report I was to make to the Prince—on Tuesday the 19th, sir Henry asked him in the House—have you received any message from the Prince? What do you mean? he returned. Has the earl of Egmont delivered you no message?—I do not know the earl of Egmont. He will, then, replied sir Henry, for I was introduced to the Prince last Sunday, and he asked me if I knew you—I said, yes, intimately—he then asked how you were disposed towards him—I replied, that I thought you had the highest regard for him, &c. His royal highness then said, I must send to him by Dr. Lee or lord Egmont, for what comes from them, is the same as if it came from me.

"Feb. 28. Mr. Oswald came to me from the Prince, whom he found at Carleton House—He was received very graciously, and the Prince talked to him on many subjects and of many persons, but never mentioned my name—They agreed that Mr. Oswald was to have the Green Cloth, and to kiss hands on Lady-day." Dodington's Diary.

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saving a little money, banish or starve a great number of our brave seamen.

I say a little money, Sir; for I was surprised to hear the noble lord suppose, that by reducing 2,000 seamen, we should save 104,000*l.*: he certainly understands the affairs of the navy, and he must know, though, I believe, he did not reflect, that out of the 4*l.* a month allowed for each seaman, near one half is reckoned for wear and tear, and for ordnance service; so that a considerable part of what is saved in the reduction, must be added to the ordnary of our navy, and therefore I reckon that the most we can save by reducing 2,000 seamen, will not amount to more than 64,000*l.*; and our foreign subsidies, if we go on with them, as I suspect we shall, will soon exceed this sum. But even as to this 64,000*l.* can we think, that the whole will be money actually saved? If we reduce 2,000 this year, we may probably have occasion for them the very next; and unless we have recourse to the infamous method of pressing men into the service, we must, in order to get what we want, raise the wages of all the seamen in the public service, by which we shall add to the next year's expence more than we have saved by our ill-judged œconomy in this; with this further disadvantage, that we shall thereby raise the wages of all the seamen in the merchant-service, which our commerce cannot well bear; for as we are now rivalled in commerce by almost all the nations in Europe, our navigation must suffer by every additional expence we bring upon it; and, as some branches of our trade, particularly that of Hamburgh, are already carried on by foreign ships and foreign seamen, our merchants may at last be obliged to carry on every branch of our trade, so far as is consistent with the act of navigation, by foreign ships and foreign seamen.

This, Sir, is a consequence which we have great reason to dread, and will, in my opinion, be an infallible consequence, if we continue such harsh usage towards our poor seamen, as we have practised for some years past. By the frequency and severity of pressing, we have not only rendered the condition of our sailors worse than that of any other part of his majesty's subjects, but when pressed, we have used them in a cruel manner, by turning them over from ship to ship for a long tract of years, by dismissing them the moment we found we had no further occasion for their service, and by neglecting to pay them their wages for a great number of years. Our ministers know too well, that a navy debt is the debt which the nation will always most cheerfully provide for; and therefore, if any service must go in arrear, they take care it shall be that of our navy. By this means, it is known, that our seamen have been sometimes kept for ten years without their wages, which exposes them to the cruel mercy of usurers and extortioners, or obliges them to sell their wages for one half of what they have a right to demand. This usage will in time so much diminish the number of British sailors, that it will be impossible to find any such, even for the merchant-service, without giving them higher wages than are given by any of our rivals in commerce: the consequence of this must be, that our merchants will employ foreign ships and sailors in all branches of trade, where they can be employed by our act of navigation; and with respect to those branches of trade, where by that act foreign ships or sailors cannot be employed, they must be entirely given up to foreigners, unless it be our plantation trade, where we cannot be rivalled by foreigners: even that trade it will be very difficult to keep to ourselves, when the people in our plantations find, that they can have all sorts of commodities at a cheaper rate from foreign countries than from their own.

In short, Sir, the consequences from the reduction proposed may be so fatal, and the saving can be so small, that I think, we ought at least to continue the establishment of last year; therefore, I hope the noble lord will withdraw the motion he has made, and make a new motion for 10,000 seamen for the service of the ensuing year.

Mr. *Pelham*:

Sir; I believe it has very seldom happened, that any one in my station, or in the station of the noble lord who made you this motion, ever argued for a diminution of the public expence; but the circumstances of this nation are such at present, that, in my opinion, every man who has the prosperity of his country sincerely at heart, must be for saving as much of the public money as possible. We must save, Sir: we must save as much as possible upon every article; and as this is the first article of the public expence, that has in this session been brought before us, I hope gentlemen will consider, without prejudice, whether a little may not be saved even upon this, which is deservedly the most favourite article of the public charge. Our

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army is not now before us; therefore I wish gentlemen would avoid making comparisons between our army and navy, for they are always invidious, and may prove dangerous. When our army is brought before us, we must save upon that article too, if it should be found consistent with our immediate safety; but suppose we were to disband one half of our army, that would be no argument for our keeping more seamen in pay than is necessary. Therefore the question now before us is not, whether we shall save upon the article of our army or upon that of our navy: we must save upon both, if possible; consequently, the only question now under consideration is, whether 8,000 seamen will be sufficient for the service of the ensuing year; and I rejoice in the opinion, which I have formed from the most diligent enquiry, and the best information I could get from those who are best acquainted with the nature of that service, and with the present situation of our rivals in naval power. From that information I am convinced, that 8,000 seamen will be fully sufficient for the ensuing year; and in our present circumstances, under our present load of debts and taxes, surely, no gentleman will say, that we ought to keep a man more than is sufficient for that service.

I shall grant, Sir, that in the present question our character as a maritime power, and the supply of our navy upon any sudden emergency without distressing trade, are both to be considered; for as to that of pressing, I am of opinion, that it is impossible to prevent the necessity of it, by any other method than that of keeping, in time of peace, as many seamen in pay, as we could have occasion for in time of war. Suppose we were in time of peace to keep 20,000 seamen in pay, we should want 20,000 more upon the first breaking out of a war, and it would be impossible for us to get that number without pressing; because our merchants will always give higher wages than the public can afford to give, and no man, or at least very few, will ever chuse to list in the public service, when they can have higher wages in that of the merchants. To supply our navy, upon the breaking out of a war, without pressing, is therefore to me a chimera; and every project hitherto offered for preventing the necessity of pressing, has upon examination appeared to be chimerical. It would be the same in the land-service, if no man could be a soldier but he that had served a seven years apprenticeship to the trade; but as every ploughman, every tradesman, or servant, may be a soldier, we have hitherto found volunteers or vagabonds enough for supplying that service; though, if the war should become so heavy as not to find from thence a sufficient supply, we should then be reduced to the necessity of pressing for the land as well as sea service.

In my opinion, therefore, Sir, it is impossible to prevent our being reduced to the necessity of pressing at the beginning of a war, by any other method but that of keeping in time of peace as large, or very near as large, a number of seamen in the pay of the public, as we can have occasion for at the breaking out of a war; and this, I think, no man will ever advise, especially in our present circumstances; consequently, when we are to consider what number of seamen may be necessary in time of peace, we are to have regard only to the preserving of our character as a maritime power, and to that of preventing our being obliged to bring too great a distress upon our trade, when we happen to be involved in war, which, I hope, will not be for many years to come. It is this regard alone, Sir, that in time of peace obliges us to keep any ship in commission, or any able seaman in the pay of the public; for I agree with the hon. gentleman, that at present, as we have neither enemy nor pirate to fear, we should not otherwise have any occasion to put the public to this expence.

Now, Sir, with regard to our character as a maritime power, it depends more upon the number of ships we have ready to put in commission, and the number of seamen we have at command, than upon the number we have at any time in commission, or in the actual service of the public. With regard to the latter, it must always depend upon the conduct of our neighbours, or of those who can be called our rivals in naval power: when they keep few ships in commission, and few seamen in pay, we may take that opportunity to save the public money by following their example; and as soon as they begin to increase their expence that way, we ought to increase ours, in order to guard against any surprise. This his majesty may do, should he find it necessary; and if it should be necessarily done, I am persuaded, next session would make it good, and that I am for trusting to rather than for granting more money than appears to be necessary; for notwithstanding the post I have the honour to en-

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joy under his majesty, I shall never be for putting more money into the hands of ministers than there appears to be occasion for, because I had rather see the parliament granting money for services incurred and not provided for, than calling ministers to an account for a waste of public money, which they had been tempted to commit, by having more than was necessary put into their possession.

Our character as a maritime power may therefore be preserved by keeping our ships of war always in perfect trim, by encouraging our commerce and fisheries, and by having always a number of seamen in the public service, equal to that of any of our rivals; and for this last purpose 8,000 must for next year be sufficient, because there is no potentate in Europe has at present so many in actual service. This number will likewise, in my opinion, be sufficient for preventing our being obliged to distress our trade upon the appearance of any rupture; for it has been admitted, that we may take 10,000 seamen from our trade without distressing it, and with that number added to what we have, and such a proportion of landmen as the service will admit of, we may in a few weeks fit out a more powerful squadron than any state in Europe can in several months fit out against us; and if we should want a greater number, we know how to supply our trade, by giving them leave to employ foreign seamen; which leads me to consider that concern some gentlemen seem to be under, lest multitudes of our seamen may have lately gone into foreign service. It is a laudable concern, Sir, a concern which I am glad to see gentlemen affected with; but to alleviate their fears in this respect, I must observe, that during the war multitudes of landmen of all professions entered into the sea-service, and multitudes of foreign seamen were employed by our merchants: The former have returned to their usual employments at land, and the latter to their respective native countries. To this I shall add, that great numbers of our own seamen, who were provident enough to save something out of the high wages they received, and the many prizes they were concerned in taking during the war, are now settled in some business or employment at land, either here or in our plantations; and from all these we may, I believe, account for the whole number that have been dismissed the government's service, without supposing that many of them have gone into foreign service. For my own part, I am convinced, that very few of our seamen have gone into foreign service, except such as had lost all character at home, or were become liable to severe punishment for some atrocious crime; and such as dare will, I am persuaded, return as soon as possible; for there is no country in the world where the seamen are so well provided for as in this, nor any country where they are not exposed to all the hardships that are complained of in this.

The fears, therefore, of our seamen being gone into the service of France, however laudable, are, in my opinion, groundless; and, as to the apprehensions some gentlemen have from what we hear of the efforts of France to restore or increase their marine, we cannot, surely, have any thing to fear from thence for this ensuing year; for in that time it will be absolutely impossible for France so to increase their marine, as to be able to cope with us at sea; and they smarted so severely in the last war, that I believe, they will take care not to come to a rupture with this nation, till they think themselves at least a match for us at sea. If ever they should grow so vain, I hope, they will find themselves mistaken; especially, if we take care to preserve a powerful alliance upon the continent, ready to attack them by land, if they should ever venture to attack us by sea; and for this purpose nothing can be so effectual as that of securing the internal quiet of Germany, by getting a king of the Romans chosen. If by a few subsidies we can do this, it will be money as well laid out as any that was ever expended by this nation; for France will be cautious of disturbing the tranquillity of this kingdom, or of Europe, unless they have a well-grounded hope of being able to stir up a civil war in Germany; and I am sure, it is not our business to provoke France to a rupture, which some gentlemen seem to be aiming at, by endeavouring to create jealousies and misunderstandings between the two nations.

No gentleman, surely, Sir, supposes that we can send to France, to enjoin them not to build any more ships of war, or not to increase their marine, under the pain of our declaring war against them, if they did. All Europe would confederate against us, should we assume any such dictatorial power. All we can do therefore is, to take care to be equal, if not superior, to France in naval strength. How is this to be done? not by squandering our money upon use-

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less armaments in time of peace, but by saving as much as possible, and encouraging our commerce, our fisheries, and our plantations. If we do this, we have got so much the start of France, and have such an advantage from our situation, that it will never be in their power to come up with us. They may build ships, they may even exceed us in number and strength of ships, as the Spaniards did in queen Elizabeth's time; but unless they have expert and able seamen to navigate and fight those ships, they will, in case of a war, only serve to adorn our naval triumphs. So far, therefore, from being afraid of the French efforts towards establishing a superior naval power, I think, we ought to be glad to hear of it, because it is an attempt in which they can never succeed; and the expence they are at in this way, will render them the less able to defend themselves against our confederates at land, in case of a new war.

I hope, Sir, I have now allayed gentlemen's fears of the growing maritime power of France: I hope I have shewn, that 8,000 seamen will, for this next year, at least, be fully sufficient for all necessary purposes; and as to the saving by the reduction, I shall grant, it will not be so considerable as I could wish; but as the wear and tear, and sea ordnance do not cost near so much when ships are laid up, as when they are in commission, the saving will be more considerable than the hon. gentleman who spoke last, was pleased to reckon. Something, it is true, must be added to the ordinary of the navy on account of the ships that are to be laid up; but it will not amount to 40,000*l.* nor half the money; and a saving of above 80,000*l.* cannot be looked on as a trifle in our present circumstances. As to the difference of sentiments, which he was at such pains to point out to us, it is a difference which I cannot yet discover: his majesty is not, surely, to repeat every year the same thing in his speech from the throne; and when he does not mention the fleet, we cannot properly take notice of it in our Address; but I can take upon me to say, that his majesty and all his servants have now the care of the fleet as much at heart, as they had two years ago, or at any preceding time: as a proof of this, all our ships are now in perfect order, a very few excepted, a very large sum has been this last year laid out in buildings, rebuildings, and repairs of the navy, and, I believe, gentlemen will find, that a considerable sum will this year be asked, and, I hope, granted for the same purpose. In short, Sir, our navy cost us last year above a million sterling, which is more than can be raised by a land-tax of 2*s.* in the pound; and notwithstanding the reduction proposed, it will, I believe, this next year cost us near 850,000*l.*; both which articles of expence I highly approve of, because I shall always be for reducing the number of seamen in the pay of the public, rather than to neglect keeping our ships in complete repair; for from our commerce and fisheries, both which will, I hope, increase every day, we may have seamen when we want them, but can no where have ships, unless we have them of our own, and ready for service. For this reason, Sir, and because I do not think that during the course of this year we can stand in need of more than 8,000 seamen, I shall be for concurring with the noble lord's motion.

Mr. *Thomas Potter*:

Sir; I am really astonished, when I consider how inconsistent some gentlemen are, when they argue for a number of land forces to be kept in the pay of the public in time of peace, and when they argue for a number of seamen to be kept in the pay of the public in time of peace. When the question before us is about the number of land forces to be kept up in time of peace, they never once think of the vast number of brave landmen we have, and, I hope, always shall have, in this island: these are with them upon that occasion of no account, with regard to the strength or power of the nation, which they then say consists only in the number of men we have in actual pay, and subject to the slavish rules of military law; and when any one proposes a diminution of the number, they exclaim, What! will you weaken the hands of the government? Will you dismiss those men upon whom alone you can depend for your protection? But when the question comes about the number of seamen to be kept in public pay, they then tell you, that the maritime power, or strength of this nation, does not depend upon the number of seamen you have in the actual pay of the public, but upon the numbers that belong to the wide extended British dominions, though many of them are at all times dispersed over the whole face of the globe: these you may reduce, these you may dismiss at pleasure,



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without exposing yourselves to any danger. From this way of arguing, Sir, would not an ignorant stranger conclude, that the government has no power over the landmen of this island, even in the case of an invasion, or that a man might learn to be a complete sailor in a few days, but could not learn to be a complete soldier in a few years? One of these conclusions an ignorant stranger would certainly draw; and yet with respect to both, we know, that the case is directly the reverse. Upon any threatened invasion his majesty has as much power over the landmen, that is to say, the militia, so far as relates to the proper use to be made of them, as he has over the seamen, nay, more, because the landmen are always at home, but great numbers of our seamen are at all times abroad; and do not we all know, that to make a complete seaman requires several years service at sea, and early in life too? Whereas the most ignorant landman may learn all the business of a common soldier in a few days: I mean all the fighting business; for as to all the punctilios of a review, I shall grant, it may require some months before he can go through them with dexterity.

I am sorry to say it, Sir, but from the care we have taken to keep a great number of land forces in continual pay, and the little concern we have shewn for keeping any great number of seamen in continual pay, it really seems to me, as if our government had been of late years more afraid of its domestic than of its foreign enemies; and this suspicion is strongly confirmed by the little care that has been taken of the militia, and particularly by the refusal of that useful regulation so often proposed, for giving our soldiers a right, in time of peace, to demand their discharge after so many years service. If this regulation had been established, when we first began to keep up a numerous land army, we should before this time have had a great number, not only of brave landmen, but of disciplined soldiers; and the denying of this right to a poor soldier, furnishes too solid a ground for supposing, that our ministers are resolved not to depend for their security upon the affections of the people in general, but upon the obedience of those they keep under a slavish subjection to military law. I appeal to every gentleman that will reflect but a very little, if this consequence may not be most naturally drawn from our late conduct. God forbid it should ever, under our present illustrious family, be drawn by the people in general; for if it should, an invading army that came not to conquer the people, but to redress their grievances, would meet with little, if any resistance from the people; and I believe, nay, I hope, that no English army will ever be zealous for the support of a government that is hated or despised by all the rest of their countrymen. This our ministers, if they are faithful servants to their master, will seriously consider; and if they do, they will alter their conduct: they will lessen the expence we are put to by keeping up numerous standing armies in time of peace, and concur in some scheme or other for restoring military discipline to the people in general. By this means we may have soldiers enough always at command, but it is impossible for us to have seamen enough always at command, without keeping a great number in the pay and in actual service of the public, in time of peace as well as of war.

The reason of this difference, Sir, is very plain: a man may not only learn but practise the trade of a soldier without departing from that business by which he is to earn his bread in time of peace: but no man can learn, and much less practise the trade of a seaman, without departing from every other sort of business by which he can earn his bread in time of peace: therefore, in time of peace, especially after it has continued for six or seven years, it is impossible for us to have any more seamen, than are necessary for the merchant and fishing service, besides those that have been continued in the pay and the actual service of the public; for even a thorough-bred seaman, after he has been for six or seven years continually at land, becomes absolutely unfit for the sea-service, and must be again for some time at sea, before he can do the duty of an able and expert sailor. From hence, Sir, it is evident, that of two states naturally equal in number of inhabitants, if the one takes care to have all its people bred up to arms and military discipline, and the other trusts entirely to its standing armies, the first must have the superiority in military power: but of two states naturally equal in numbers of seamen, that state must acquire a superiority in maritime power, which keeps the greatest number of seamen always in the pay and the service of the public, even though the other should have a greater number of ships of war ready to put to sea. The Swiss furnish us with an



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example of the first of these cases; and I wish, that France may not soon furnish us with an example of the last; for though I believe, they have not in America such a great number of seamen as we have, and consequently, upon the whole, are not naturally equal to us, yet I am afraid they have now naturally as many seamen in France as we have in Great Britain; and these only can serve for making or defending a sudden attack. And granting, as I have, that naturally they are not upon the whole equal to us in maritime power, yet in seven years they may make themselves superior, by keeping a much greater number of seamen in the continual pay and service of the public; for supposing, that we have 60,000 seamen employed in the merchant and fishing service, and the French have but 50,000 employed in the same sort of service; yet, if they keep 20,000 seamen in the continual pay and service of the public, and we keep but 8,000, they will at the end of seven years be superior to us in maritime power; and whatever reflections the hon. gentleman may throw out upon those that make it their business to provoke France to a rupture, I must tell him, that rather than see this at the end of a seven years peace, I should wish to see a war declared to-morrow; for we must not think, that France has given over the contest for maritime power; like the defeated bull so beautifully described by Virgil, they are by all means possible endeavouring to gather more strength, and

Post, ubi collectum robur, viresque receptæ,
Signa movet, præcepsque oblitum fertur in hostem:

This, Sir, is the true reason why we should always keep up a large number of seamen, even in time of peace, and this reason is now stronger than ever it was heretofore. I wish as heartily as any gentleman in this House, to see our debts paid, or to see us in a way of paying them; but to allow France to get the superiority of us at sea, is not, I am sure, the way to pay them; for if that should ever happen, the nation, as well as its debts, will be annihilated. It is, in my opinion, ridiculous to think of their being ever paid by the dull method of economy alone: some grand scheme, some curious project must be invented for that purpose by some happy genius, and carried vigorously into execution by a steady and faithful administration; otherwise, I may venture to foretel, that our debts will never be paid. Supposing the Sinking Fund were every half year to be duly and regularly applied to the payment of our debts, and that it now amounts to a million yearly, it would be above forty years before our present debt could be cleared. Is it possible to suppose, that this nation can continue for forty years in such a profound peace, as not to have occasion for keeping any foreign troops in its pay, or for fitting out a squadron of observation? And supposing this possible, can we expect, that in the present general contention for trade and manufactures, our trade and manufactures can continue in their present flourishing condition, if they remain liable to all those duties and difficulties with which they are now incumbered? If they should come to diminish, if our foreign exports should be reduced to little or nothing, which is far from being impossible, farewell, Sir, to your Sinking Fund; for as it now arises from the surplusses, it would soon be eat up by the deficiencies of your other funds.

At the same time, Sir, I am far from discommending œconomy; let us always make as much use of it as possible: but let us apply it to those articles of expence, which may be lessened without danger. To apply it to our navy, is risking our very being: shall we reduce the number of our seamen in order to pay foreign subsidies, useless land armies, and unmerited pensions and salaries? This is like a gentleman's starving his children, in order to squander the money in feeding his hawks and his hounds. The hon. gentleman says we may save 80,000*l.* by the reduction proposed: I believe there is not a gentleman in the House but can tell him, how he may save twice that sum yearly without the least diminution either of our military or maritime power, and with a very great addition to our character for wisdom. It is by such a saving that we should think of paying our debts: it is by such a saving that we should think of enabling ourselves to support a new war; and not by such a saving as will render the next war the infallible æra of our ruin. Let us but preserve our superiority at sea, and we may boldly enter into it as soon as our honour calls upon us to do so. With a land-tax at 4*s.* in the pound, the usual malt-tax, and the Sinking Fund, we have still a revenue of above 3,500,000*l.* unmortgaged, and with that revenue rightly managed, we may carry on any war we can be engaged in, with hopes of success, and without borrowing a shilling, provided we keep no useless armies at home, nor engage in any land war upon the conti-



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nent of Europe. But I fear this nation will not soon have the good fortune to find itself engaged in a sea war, without being at the same time involved in a land war upon the continent of Europe; and such a war I shall admit, that we are not now able to support in the manner we have formerly done, nor will the utmost economy in time of peace enable us to do so. We should therefore now at last begin to think of confining ourselves to our own defence, and for this purpose the best, indeed the only, method we can take, is to promote or rather restore, military discipline among our people in general, and to preserve, if not to increase, the number of our seamen, by keeping a sufficient number of them always in the pay and the service of the public.

I was surprised to hear the hon. gentleman say, that we could not prevent the necessity of pressing, even by keeping 20,000 seamen in pay in time of peace, because upon the breaking out of a war, we should want 20,000 seamen from the merchant-service. I say, Sir, I was surprised to hear this, considering it had been so fully explained by my hon. friend who spoke some time before him, that in such a case we should want but 10,000 seamen from the merchant-service, and that these they could safely supply by taking landmen on board, which would prevent their being under a necessity to raise the wages of the seamen that remained in their service. Surely, three-fourths expert seamen, and one fourth land-men, would be sufficient for our ships of war, and the same proportion would do for most of the ships in the merchant-service, especially, as in time of war they generally sail with more men than in time of peace. Thus, I think, Sir, there is a great probability, that if we kept 20,000 expert seamen always in pay, we should never have occasion for pressing, and what adds to this probability is, that we could never be in a hurry for any additional number; for with 20,000 seamen ready at command, and such volunteer seamen and landmen as would presently enter, we might supply as many ships of force, as we could well have occasion for at the first breaking out of a war, and then by degrees increase the number, as we found it convenient or necessary. And as there would be always seamen enough both for the government's and the merchants service, there would be no occasion for turning men over from one ship to another against their inclination, which would be a great encouragement for their listing in the service of the government.

Upon the whole, Sir, to reduce our marine in order to enable us to keep up numerous land armies, and to purchase foreign auxiliaries, appears to me to be such a preposterous sort of conduct in an island, that I cannot agree to it. At least I cannot agree to it, until it has been fully and clearly proved, that the keeping up of these land armies, and the purchasing of these auxiliaries, are absolutely necessary for our immediate safety; and consequently, I must think, that the consideration of this article of expence should be put off till the other two have been settled; therefore, though I am very little master of order, I believe, I may venture to move, and I do move, Sir, That you now leave the chair.

Mr. *Henry Fox:*

Sir; I will admit, that the hon. gentleman has fairly enough stated the method of arguing with regard to our land soldiers and our seamen; but I am amazed how he can be astonished at that method of arguing, if he ever considered the present state of our militia, or the power which the government has over them, or any other landmen in this island. As to those landmen that are not listed in the militia, I know of no power the king has over them at all, even upon the event of an invasion: as long as they find one to serve in their stead in the militia, his majesty cannot compel them either to provide themselves with arms, or to breed themselves up to military discipline. Then as to the militia, no man who can find one to serve for him, is obliged to serve in person: from whence it of course happens, that they consist of the lowest and meanest of the people, with respect to their courage, I believe, as well as in every other respect: even their officers generally are but low tradesmen; because no man can be compelled to accept of a commission in the militia. With regard to their discipline, there can be but one general county muster in a year, which is not to last, I may say, above two days, for the men must not be kept above four days from their habitation; and there can be but four particular musters in a year, and each to continue not above two days at most, which, I believe, the hon. gentleman will allow not to be sufficient for making a man master even of the fighting business of a soldier. And lastly, as to the service of the militia,

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they cannot be drawn out of their county: the lord-lieutenant may conduct and employ them, within the place for which he is commissioned; but he has no power either to conduct or employ them where he has no commission.

This, Sir, is the present state of our military power, so far as it relates to those landmen that do not belong to our regular army; and consequently, if we had no regular army, I believe, every gentleman will grant, that we should have no military power at all, at least not such a military power as would be sufficient to defend us against an invasion, or even against a rebellion; for those that rebel against an established government, always consist of some of the boldest and most desperate of the people. The last Rebellion shewed us, that if it had not been for the conduct and animating presence of that brave prince, who is now at the head of our army, and long may he continue to be so, the rebels would probably have been more than a match even for our regular troops. I shall readily agree with the hon. gentleman, that we have a great many brave landmen in the kingdom; but they are not of the militia, nor are they under the king's command, even against an invasion or rebellion. However, it is with pleasure I recollect, that so many of them voluntarily offered his majesty their service during the last rebellion: they were personally brave, as brave, I believe, as any men in the world; but, alas! there was hardly one of them that knew how to do his duty in a squadron or battalion, and consequently they must have fallen into confusion as soon as they engaged in action, had they met with an enemy that not only knew how, but could have taken the proper advantage of their want of discipline; for the great advantage of a regular well-disciplined army is, that the general may change his disposition in a moment, without danger of his troops falling into confusion.

As to any scheme for rendering the militia useful, I do not remember, Sir, that I ever heard of one, but what upon examination appeared to be impracticable. To render all your landmen, or even your militia, equal to regular troops, you must give the crown such a power over the persons of men, as the people would think inconsistent with their liberties: the very attempt would raise a more general clamour without doors, and a more violent opposition within, than was ever raised against the Excise-Scheme or the Convention. As to the Swiss, Sir, we know how they come to have such a good militia; they have always a great number of regiments in foreign service, and their soldiers when they have got a little plunder or have saved a little money, obtain their discharge, and settle at home, by which means they have always their country full, not only of disciplined, but of veteran soldiers. This, Sir, is almost their only traffic, the only means they have of bringing money into their country; but, thank God! we have no occasion for carrying on such a traffic, and no gentleman, I believe, will advise us to begin it. I am therefore of opinion, that it will be always necessary for us to keep up a small number of regular troops, not only for our defence against a sudden attack, but as a foundation to build on when we have occasion for raising an army. And as to that of giving soldiers a right to demand their discharge after any number of years service, it was so clearly shewn, when the proposition was made, that it would put an end to all discipline in the army, that the House, by a very great majority, rejected the proposition, rightly judging, that it would be better to have no army at all, than an army without discipline. And this we ought to be the more confirmed in, as experience in the last war shewed us, that a slackness of discipline in time of peace, renders troops unfit for performing their duty in time of war. No troops ever behaved better than the Dutch troops did in queen Anne's war, because they had been under the direction of king William, during the preceding peace; but during the last peace their discipline was neglected, and accordingly their behaviour in the last war was but very indifferent.

In short, Sir, though we have a great many brave landmen in the kingdom, yet as the trade of a soldier is not their profession, as none of them live by it, except those in our army, it will be impossible to make them learn it, much less practise it, unless you should restore your military tenures; therefore we can never properly be said to have any military power, but that which consists in the troops that are kept in the pay and service of the government. Whereas, with respect to our seamen, seafaring is their trade, it is the trade they live by, therefore they must learn it, and without practising it, they cannot live by it: consequently, whether they be in the immediate pay and service of the go-

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vernment, or no, they may be justly said to constitute our maritime power, because the government may upon all occasions, either by premiums or pressing, have as many of them as it stands in need of.

I hope, gentlemen will now see, Sir, very good reason for our arguing upon any question relating to the number of troops to be kept in public pay, in a very different manner from what we do upon any question relating to the number of seamen to be kept in public pay; and as to France, or any other nation's getting a superiority in maritime power, by keeping a greater number of seamen in public pay than we do, I hope our ministers will take care of it: they know best what numbers of seamen are kept in public pay by other nations; and when they hear, that any rival nation has increased the number of seamen in the pay of their government, I am persuaded, they will immediately advise his majesty to take an additional number into his pay, which he may do, when necessity requires, notwithstanding any previous resolution of parliament.

I am very unwilling, Sir, to depreciate the power, especially the maritime power of this nation; but I am very much afraid, that if we engaged by ourselves alone, even in a sea war against France, we should find ourselves over-matched, especially as France would probably be assisted by Spain, and, perhaps, by some other states in Europe: this, at least, I am sure of, that we could not support such a war with so small a revenue as 3,500,000*l.* which is the utmost we can well raise yearly, without borrowing; and some part of that, surely, we should be obliged to employ at home, in providing for our defence at land as well as by sea. For supporting such a war, therefore, we should certainly be obliged to borrow large sums yearly, but the difficulty would be where we could get people to lend; for if we were generally thought to be over-matched even at sea, no man would lend us money upon public credit, because, by the issue of such a war the nation would, without all doubt, be undone. For this reason, Sir, had I the honour to be his majesty's chief minister, I should never advise him to enter into a war with France, without a very powerful confederacy upon the continent. It was by this means that we brought France to the very brink of perdition in queen Anne's reign, from which they were saved by the scandalous treaty of Utrecht. It was by the weakness of our confederacy in the last war, or rather by the lukewarmness of some of our confederates, to call it by no worse a name, that we were so unsuccessful at land. However, by the opposition we made at land, the French had their hands so full, that they were unable to take care of the increase, or indeed, of the preservation of their marine; and notwithstanding their success at land, our successes at sea made them glad to accept of reasonable terms of peace, without adding one inch of ground to their dominion, in recompence for the vast charge they had been at in the support of that war, and the risk they had run of being ruined by its event. I say, risk, Sir, for if the king of Prussia had not moved to their assistance in 1744, or had been unsuccessful in the war he for that end recommenced, the French, I believe, would have been forced to yield up some part of the territories they were possessed of at the beginning of the war.

We have not for ages past, Sir, had any experience of a war carried on by this nation alone against France: what would be its issue therefore, God only knows; for no man can so much as divine. But we have had lately repeated experience of a war carried on by this nation in conjunction with a confederacy against France; and from that experience we have reason to judge favourably, and to hope for the best, from the event of any such future war. Surely, then, the wisest measure we can pursue, is to cultivate an alliance and friendship with those states, that have reason to be jealous of the power of France as well as this nation. Is there any state in Europe more proper for this purpose than the German empire? Whilst that powerful body is united, and in alliance with us, we may rest secure, that France will never give us any cause of quarrel. Consequently, is it not our interest to cultivate a friendship with the German empire, and to contribute all we can towards the preservation of an union amongst the several members thereof? Can the saving of 50, or even 100,000*l.* a year, be put in the balance with this? Do not we know, that France is every day, by negociations, by presents, by the tender of pensions, endeavouring to sow division among the members of that powerful body? And shall we be at no pains or expence to preserve their concord?

The hon. gentleman talked, Sir, of the difficulty of our paying our debts: I shall grant it is difficult; but I will be bold to

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say, that this is the only method by which we can be enabled to pay our debts; for if concord and unanimity be preserved among the several princes of the German empire, the tranquillity we now so happily enjoy, may probably continue for at least 40 years to come; and the hon. gentleman has himself allowed, that our debts may be all cleared before that time, or very soon after; but as the natural interest of money will be gradually diminished by our annual payments, and by the rise of the price of lands, I am persuaded, that our debts may be all paid long before that time, by means of the Sinking Fund alone, without any extraordinary scheme for that purpose; for such schemes, I confess, I am not fond of; because within the memory of many of us, the nation smarted severely by such an experiment.

But now, Sir, suppose we should be so unwisely penurious, as to put ourselves to no expence about any foreign measures; and suppose, as an hon. friend of mine has already said, that we should reduce one half, or even the whole of our army; what could either of these have to do with the present question? Could both furnish us with a tolerable reason for putting ourselves to the expence of keeping more seamen in pay than we have occasion for, and more than is kept in pay by any of our rivals for maritime power? Could we justify such an unnecessary expence in our present circumstances? Therefore, what we may do with respect to either of these articles, can be no reason for putting off the consideration or the determination of the present; and surely, it will be granted, that we ought to provide for some number of seamen. Can any gentleman say, he is not now as fully prepared for determining this question, as he can be at any future time in this session? And what chiefly determines me, and ought, I think, to determine every gentleman to be for the lesser number, is, that his majesty may increase the number the moment he finds it necessary.

As to the provision made last year, Sir, for the coast of Africa, and the coasts of Nova Scotia, the hon. gentleman who spoke first against the number of seamen now proposed, may move for an enquiry into it whenever he pleases; for it will appear, that both were sufficiently provided for. There are two men of war now upon the coast of Africa, at least they are there if they have pursued their orders; and all parts of America, particularly Nova Scotia, were sufficiently provided with stationships or sloops. But this, like the other two questions I have mentioned, has nothing to do with the present; therefore, I hope, Sir, it will be put, before the House agrees to your leaving the chair.

The Earl of *Egmont*:

Sir; it may be easily determined which is the weak side of the question now before us, from what was said in favour of it by the hon. gentleman over against me upon the floor, who spoke some time ago; for he usually speaks with more ability, and with more candour, than he did upon this occasion. As to his ability, I really do not know what he means by 8,000 seamen being sufficient for all necessary services; in time of peace, and when there are no pirates at sea, I know of no immediate services that are necessary. As to any such services, we should have no occasion for keeping one ship in commission, or one seaman in pay, except those under-officers that are kept for cleaning and taking care of the ships. This cannot therefore be the reason for our keeping any seamen in pay in time of peace: the true reason is, that in case of a rupture, or any sudden danger, we may be able to send a sufficient squadron to sea without distressing our trade; and will any gentleman say, that 8,000 seamen are sufficient for this purpose, especially as I find it is proposed to have one half of them always abroad? Sir, no man can say, that 10,000 is sufficient; and for this reason I did not approve of the reduction made last year. Then as to his candour, I must beg pardon to say, it was not altogether so candid in him to charge this side of the House with a design to foment a quarrel with France, or with any other power whatsoever: we never gave the least cause for charging us with any such design; but we have often declared, and I suspect, we may often again have occasion to declare, that we are against preserving peace by base and mean submissions, because we know it will not do: experience in a late long administration has clearly shewn that it will not do; for in public as well as private life, the only way to prevent a second insult, is to resent the first with spirit.

Now, Sir, with regard to what was said by the hon. gentleman who spoke last, I shall grant, that by the present regulation of the militia, it can never be of any real service: I believe, it was not designed to

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be so, when it was first established; because our court had then a design to render the keeping up of a standing army necessary; and accordingly, the foundation was laid in that very reign, upon which our present dangerous fabric has by degrees been erected; but I should be sorry to think, that we had no military power except that which consists in the troops we keep in pay; and I was glad to find, that what the hon. gentleman said of the late rebel army, overturned the whole of his doctrine upon this head: for I hope, they were not the only brave men in the island: I hope, there is not a gentleman, a yeoman, or a farmer in the kingdom, but what are as brave, and as apt to learn the fighting business of a soldier, as they were; and if they were like to have been an overmatch for our regular troops, ought we not to conclude, that an army newly raised, and consisting of our young gentlemen, yeomen, and farmers, would be an overmatch for any regular troops that can be brought against us? We have still, thank God! the same commander that was then at the head of our regular troops: and I am persuaded, he would shew the same courage and conduct at the head of a volunteer, which he then shewed at the head of a mercenary army. The former might not, perhaps, be so ductile, but I am convinced, they would be as brave, and as alert, in the execution of every order that tended towards defeating the enemy. We know, Sir, that in time of real danger, his majesty is not to trust to the militia: he may then issue commissions for raising as many regiments as he pleases, and every volunteer that lists in those regiments, is as much subject to martial law as any soldier in our regular army: if we were threatened with an invasion from France, I am persuaded, his majesty, who possesses the hearts and affections of his people, might, in a very few days, by this method, raise as great an army as he pleased, of as brave men as any that were in the late rebel army; and nothing can ever prevent this but the government being hated by the people, or the people's trusting till it is too late to the regular troops; both which may prove to be the effect of our keeping too great a number of the latter in continual pay.

I shall admit, Sir, that if an army of new-raised volunteers were to engage against an army of regular troops long inured to discipline, and both were to stand at a distance to fire at each other, the latter would probably get the victory, because they could fire faster and more regularly; but this is rather patience than courage: and a general, who could depend upon the personal courage and vigour of his men, would certainly not chuse this method of fighting. He would lead them presently on to the attack; and when armies come to pell-mell fighting, I believe, volunteers will generally have the advantage. Therefore, I shall always think, that our military power depends upon the number of brave men we have in the kingdom, whether they be in the pay of the government or no; and our keeping a great number in pay, and neglecting or rather preventing the discipline of all the rest, will diminish instead of increase our military power; but it is not so with regard to our seamen; for no bravery can make an expert seaman. A brave man may in two or three months be made not only a brave but disciplined soldier; and by a very little practice he may afterwards preserve his discipline, without interfering with any other employment. But it will require at least two or three years to make a brave man an expert sailor, and to continue so, he must be in almost a continual practice, so that he can follow no other employment; therefore our maritime power must be more or less, according to the number of seamen we keep in continual pay and service. Those in the merchant and fishing service add, it is true, to our maritime power, because we can make use of them when necessity requires; but as no more can be maintained by, than are absolutely necessary for that service, we should avoid being reduced to that necessity as much as possible.

Now, Sir, as the hon. gentleman's argument, or, if he pleases, his different manner of arguing upon the two questions relating to our regular troops and our seamen, is founded entirely upon the supposition, that we have no military power, but what consists in our regular troops; and as I have shewn, that our military power will rather be diminished than increased by keeping a great number of such in our pay, I think, the argument he has made use of, or the reason of the difference which he was at so much pains to establish, will entirely vanish; but supposing that our men must be disciplined as well as brave, in order to constitute a part of our military power; for, I hope, he will not say, that a man's receiving pay adds

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either to his courage or his discipline: I say, supposing this, must it not be granted, that it is the duty of our ministers to approve of every method, that may contribute towards the increasing the number of disciplined men in the kingdom? How then can they be justified, for having refused to give our soldiers a right to demand their discharge, after a certain number of years? For it must be allowed, that this would have very much increased the number of disciplined men in the kingdom. The hon. gentleman says, it was proved to the satisfaction of the majority, that this would have put an end to all discipline in our army. How a majority may be satisfied, I do not know: in this respect ministers, I believe, must have some knack, which I am quite ignorant of; for I am sure, I was far from being satisfied upon that occasion; nor can I yet see how any man can be satisfied, that knows any thing of the French or Swiss service. Their troops are certainly as well disciplined as ours; and yet in France a soldier has a right, in time of peace, to his discharge, after six years service; and in the Swiss service, their soldiers generally contract for a certain number of years, after which they may return home if they please, which is the true cause of that country being always full of disciplined soldiers.

I know, Sir, the hon. gentleman will say, that when soldiers are out of the service, they are no longer at the government's command. For this very reason, Sir, I wish we had more of them. They will always be at the command of a just and wise government, when there is an apparent necessity for their service; but they will be a terror to a weak or oppressive government; and it is for this reason, I believe, that ministers chuse to have as few of them as possible in the kingdom. For the same reason I am for increasing their number, by all the methods we can contrive; and I am the more sanguine against what is now proposed, as it seems to be introductory of a new system of government, which is to put no longer any trust in our maritime power, but for the future put our whole trust in foreign auxiliaries, and a numerous mercenary army engaged for life to be the slaves of military law. This system is not, I am very sure, an English system: it is a system inconsistent with a free government: it is a system inconsistent with our situation as an island; and I am not for trusting any thing to ministers that but seem to adopt such a system. Do not tell me of services, necessary or unnecessary; or of the number of seamen kept in public pay by any of our rivals: it is a body of brave seamen kept always on foot for our defence, and for preventing our being ever forced to distress our trade, that the nation wants; and if the parliament should think fit to grant 20,000 for this purpose, I would gladly see any minister dare to reduce their number. But as to what number of seamen may now be in the pay of some of our rivals, particularly France, has any minister, has any gentleman taken upon him to say, that the French government has not now 8,000 in their pay? And suppose a minister should from certain knowledge declare this, is there not a material difference between France and this kingdom? Their seamen are all registered, and must answer when called; the government always knows where they are, and will not allow them to go upon a long voyage, when they suspect they may soon have occasion for their service. Here it is quite otherwise, in every one of these respects: most of our seamen in the merchant service may be abroad, when we have occasion for them; and as to those that may be at home, our government, by its late treatment of our seamen, seems to have taken care, that they shall never be at its call, without being pressed into the service.

I come now, Sir, to our foreign nonsense, which the hon. gentleman was pleased to prepare us for, by insinuating, that by ourselves alone, we should not now be able to carry on even a naval war against France. God forbid, Sir, the nation should think so; for a very eminent and ancient poet has justly observed of those he mentions, that they conquered because they thought they could conquer; but, says the hon. gentleman, you have no experience of what you may be able to do, when engaged alone in a war against France; whereas you have repeated experience of what you may be able to do, when engaged in such a war in conjunction with a powerful confederacy upon the continent: and upon this occasion he took care to follow the modern fashion of falling foul upon the treaty of Utrecht; but I will be so unfashionable as to justify that treaty, by saying, that a peace was then become absolutely necessary, not only on account of the distressed circumstances this nation was reduced to, but because

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most of our allies began to be cool in the prosecution of the war, after Charles, our king of Spain, was chosen emperor, and, I believe, would have declared against us, if we had persisted in our design to establish him upon the throne of Spain. I will go farther, Sir, I will be so paradoxical as to say, that if there was any thing bad in that treaty, it was not owing to those that made it, but to those that opposed it; for if our allies had all at first joined with us in the treaty, and no party at home had set themselves up against it, we might have obtained better terms both for ourselves and our allies; but when we fell out among ourselves, it was impossible for our ministers to prevent France from taking advantage of our discord, and I wonder she did not make a greater advantage of of it, especially considering her success in the last campaign of that war.

But to return to our experience, Sir; were not we in Charles the second's reign, I mean in 1664 and 1665, engaged by ourselves alone, in a naval war against the combined powers of France and Holland? And if that Pensionary Parliament, as it was called in derision, had been as liberal to their sovereign, as many parliaments have been since, we should have beat both these maritime powers out of the ocean. Then, with regard to our experience of being engaged, in conjunction with a confederacy upon the continent, in a war against France, our present distressed circumstances shew, how fatal that experience has been to us. May we not from thence learn, that in such a war we must be the dupes of our confederates, both in the prosecution of the war, and in concluding a peace? In the prosecution of the war, we must always be at the chief expence; and in concluding a peace, we must be so far from asking any thing for ourselves, that if we have made any conquest during the war, we must give it up, in order to procure them an advantageous peace. Therefore, if we take experience for our guide, we will certainly never engage again with a confederacy upon the continent, or desire their assistance, in any such war: and we have now, Sir, a yet stronger reason, which is our utter inability to pay for their assistance to carry on such a war. We must now resolve never to think of carrying on a war by land against France, whilst we are under our present load of debts; and should we ever be so happy as to get rid of that load, I hope, experience will convince us, that in a land war upon the continent of Europe, France will always have a great advantage against us, because they can carry it on at a much cheaper rate than we can; whereas, in a sea war, we have the same advantage of the French; the evident consequence of which is, that all foreign alliances which tend to engage us as principals in a land war, must be pernicious to this nation, and are quite unnecessary, because, by giving now and then a little assistance, we may obtain all the advantages for our commerce which we can desire.

As to the happy æra of our getting quite free of debt, Sir, I wish I could have as certain a prospect of it, as the hon. gentleman who spoke last pretends to have; but if we are to set up for preserving the internal quiet of Germany by subsidies in time of peace, and to engage in war when it happens to be disturbed, I am very sure, we shall never be able to pay our debts. And with respect to the project now pretended, of getting a king of the Romans chosen, if it could secure the peace of Germany, which I am far from being assured of, I think, we have taken the worst method that could be thought of for that purpose: by granting an annual subsidy, or, more properly, a yearly tribute, to the elector of Bavaria, we shall make every one of the electors expect the like; and when they have got us saddled with a yearly tribute to each, they will certainly put off the election as long as possible, that is, during the present emperor's life; because they must expect, that as soon as the election is over, their tribute will cease: this will therefore defeat, instead of promoting the end pretended; and consequently, I must think, that if we had found it necessary for us to purchase the accomplishment of this end, we should have stipulated, that the tributes we were to pay, were not to begin till the next quarter day after the election of a king of the Romans. When I consider this affair, Sir, it puts an end to my wonder at the opposition made to the reduction of the interest payable upon our public funds. If the people had thought, that the saving would be applied to the public benefit, they would have cheerfully agreed to it; but they suspected, that it would only furnish a new fund for squandering, and their suspicions are now justified; for we have taken the money out of the pockets of our widows and orphans, in order to fill the pockets of German princes; and, in my opinion, without any necessity, or any solid



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view of advantage: subsidies or tributes in time of war must be granted to these princes, if we ever engage in another land war against France, because we cannot carry on such a war without them, and they cannot put their troops in motion without a subsidy; but in time of peace, these subsidies can answer no good purpose whatever; because experience has shewn, that we cannot thereby secure their assistance, or even their neutrality, in time of war.

But now, Sir, suppose that we could by these tributes secure the internal peace of Germany for forty years to come, can any gentleman, who considers the insults we are daily meeting with, flatter himself with the hopes of our continuing in peace for forty years, unless we are to sacrifice our trade, as well as our honour, to the preservation of peace? And even this, with respect to the payment of our debts, would be in vain; for if we lose our trade, an eternal peace would not enable us to pay our debts. Can any one say, Sir, that we are now in less danger of a rupture, than we were two years ago? Are we not now actually in a state of war with the French in Nova Scotia? I say, with the French, Sir; for their Indians are mixt with, and conducted by Frenchmen; and an hon. gentleman that was there, has informed us, that the prisoners they take are carried to Cape Breton, and that we are so mean as to admit of an exchange of prisoners. Are not the French now erecting a fort within the limits of New England? Suppose we should submit to this, are we sure, that our brave countrymen of that province will submit to this encroachment on their frontier? Are not the French now amusing us with orders for an evacuation of the neutral islands in the West Indies; and yet at the same time planting and fortifying those islands every day more and more? Are they not now extending their trade, and building new forts upon the coast of Africa? Have they not built one lately at Anamaboe? And to crown all, Sir, do not we continue to allow them to improve and fortify the port of Dunkirk, notwithstanding the motion last session against it? But the French are not the only people that insult us: the Spaniards, whilst they are negociating, and even concluding unmeaning treaties with us, continue to seize our ships, and to destroy our lawful trade in America. Did not the very last ships from thence bring us an account of two new seizures made by them? In such circumstances, Sir, is it proper, is it prudent for us to diminish the number of our seamen upon any account whatsoever?

Sir, as I have already shewn, that the true reason for our keeping up a body of seamen in time of peace, is to prevent our being forced to distress our trade upon any rupture; and as I am sure, that we can never spare to keep up too great a number of seamen in time of peace, I must think my hon. friend was in the right, to move for your leaving the chair; because this article of public expence, which is usually the first, ought, I think, to be the last provided for by parliament. We shall then see, what sum of money the House thinks can be raised within the year: we shall see what other services may be thought absolutely necessary; and the whole residue, be it never so large, ought to be applied towards keeping in pay a body of brave and expert seamen for the ensuing year. For this reason I second my hon. friend's motion; and when another hon. friend of mine thinks proper to move for an enquiry into our last year's conduct upon the coast of Africa, and that of Nova Scotia, he may depend upon me for the same favour; for the hon. gentleman who spoke last, in a manner, confessed, that there were no men of war upon the coast of Africa, when he said, that two were sailed thither, but could not say that they were arrived, which is a proof of their having but lately sailed; and another hon. gentleman told us in this debate, that there were last year but three sloops upon the coast of Nova Scotia, when at the same time there were five French men of war there; which, I suppose, were sent thither, either to protect the ships employed in carrying warlike stores to our enemies there, or to protect the ships they employ in fishing upon those coasts, contrary to the treaty of Utrecht.

The question was here put, and carried for 8,000, by 167 against 107.

*Resolutions of both Houses respecting a Libel intituled "Constitutional Queries, &c."**] January 22. Complaint was made

* "In the beginning of this year, a most daring insult was offered to a personage of royal blood, and the highest rank, as if his power in the army had been incompatible with the safety of his elder brother, who was then alive, and his family. This virulent libel was couched in a printed paper, intitled "Consti-

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to the House of Lords, by the Duke of Marlborough, of a certain scandalous and seditious paper, entitled, "Constitutional Queries, earnestly recommended to the serious consideration of every true Briton;" and that great numbers of printed copies thereof had been published and dispersed in and about the cities of London and Westminster and the suburbs thereof, and sent by the penny post, or otherwise transmitted to many of the peers and members of parliament, in order to poison the minds of his majesty's subjects, and to raise and foment disaffection amongst them.

And one of the said printed papers was laid before the House, and read. A conference was then desired with the Commons, after which the following Resolutions were agreed to by both Houses:

"Resolved by the Lords Spiritual and Temporal and Commons in Parliament assembled, 1. That the said printed paper, entitled (as above) is a false, malicious, scandalous, infamous, and seditious libel, containing the most false, audacious, and abominable calumnies and indignities upon his majesty, and the most presumptuous and wicked insinuations, that our laws, liberties, and properties, and the excellent constitution of this kingdom, are in danger under his majesty's legal, mild, and gracious government, with intent to instil groundless suspicions and jealousies into the minds of his majesty's good subjects, and to alienate their affections from his majesty and his royal family.

2. "That, in abhorrence and detestation of such abominable and seditious practices, the said printed paper be burnt, by the hands of the common hangman, in the New Palace Yard, Westminster, on Friday the 25th instant, at one of the clock in the afternoon; and that the Sheriff of Middlesex do attend at the said time and place, and cause the same to be burnt there accordingly."

After which it was resolved, That an Address be presented to his majesty, to desire that he would give immediate orders, that the most effectual means should be taken for discovering the author, printers, and publishers of the said libel, and for bringing them to condign punishment. To which Addresses his majesty's Answer was, that he would give directions accordingly; but no person concerned has ever been discovered.*

*Debate in the Commons respecting the Westminster Election.*† January 28. A Petition of the several burgesses and inhabitants of the city and liberty of Westminster, whose names were thereunto subscribed, in behalf of themselves and several other burgesses and inhabitants of the said city and liberty, was presented to the House, and read, complaining of an undue election and return for the said city; and it was ordered, that the said Petition should be heard at the bar of the House on the 5th of February. At the same time there was presented to the House, and read, a Petition of sir George Vandeput, bart. complaining of an undue election and return for the said city; which Petition was ordered to be heard at the same time with the former.‡

tutional Queries, earnestly recommended to the serious consideration of every true Briton;" and they were circulated with uncommon industry through the members of both Houses of Parliament, the dwellings of the conspicuous inhabitants of London and Westminster, and through the coffee-houses of both cities. As the paper was supposed to be wrote by a member of parliament of some note, it was complained of by the duke of Marlborough in the House of Peers, who required the concurrence of the House of Commons in expressing their utmost detestation of the libel, and ordering it to be burnt by the hands of the common hangman; which it accordingly was on the 25th of January. The author never was discovered, though he was ordered to be prosecuted, and a reward offered for discovering him." Tindal.

* January 25. The sheriffs of Middlesex attended in New Palace Yard, to see a seditious paper, entituled, Constitutional Queries, burnt there by the hands of the common hangman, pursuant to a vote of both Houses for that purpose." London Magazine.

† From the London Magazine.

‡ "During the recess of parliament, matters had been carried on with great acrimony in Westminster, between the friends of lord Trentham, and those of sir George Vandeput. The scrutiny was eagerly pursued on both sides, and it was with difficulty the high bailiff, and the most moderate on each side, could prevent matters sometimes from coming to blows. Each party was attended with managers, counsel, and friends; and all the various arts that could be devised, either by craft or violence, were made use of on both sides to establish and set aside votes. The party of sir George was the loudest and the most boisterous; and the high bailiff, during the whole sitting, appeared to be most in their interest, which gave him so much credit with the mob, that matters were kept tolerably quiet. But after the charge that was

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Upon this, and without any complaint from any person whatsoever, a motion was made, that the Journals of the House of Feb. 22 and 23 last, containing the entry of the proceedings of the House, in relation to the execution of the writ, which was ordered to be issued on Nov. 16, 1749, for the electing of a citizen to serve in the present parliament for the city of Westminster, in the room of the right hon. Granville Leveson Gower, esq. commonly called lord viscount Trentham, might be read; and the same being read accordingly, it was moved that Peter Legh, esq. high bailiff of Westminster, do attend this House immediately, in order to give the House an account of what he did in pursuance of the directions given to him by that House, upon Feb. 22d and 23d last, in relation to the execution of the precept issued to him in pursuance of the said writ.

This motion not being expected, was agreed to without opposition; and the High Bailiff being then by accident in the lobby, he was immediately called in and examined; and having in the course of the examination alleged, that the said election was protracted by an affected delay, he was asked, by whom, and by what means? which question was objected to as improper, by lord Egmont, who moved for the order of the day, and upon this the following long debate ensued: *

**Lord *Egmont*:**

Sir; when the motion was made for calling this gentleman to attend the House immediately, I could not suggest to myself the reason for such an extraordinary motion, or the use that was intended to be made of it; and therefore my curiosity led me to be passive, in order to discover what I could not then comprehend. Last session, it is true, he received the directions of this House to expedite the election, and if he met with any thing to obstruct him therein, which he could not prevent, to apply for the support of this House in the discharge of his duty. The House continued sitting till the 12th of April following without any complaint from him, consequently, we cannot suppose, that before that day any one protracted the election by an affected delay; for if any one had, it was his duty, and would, I believe, have been his choice, to have applied to this House for redress. But the scrutiny ended the 30th of April, and surely, from the 12th to the 30th, no great harm to one candidate, or benefit to the other, could have been obtained by any affectation of delay; for if there was any affectation of delay between the end of the scrutiny and the declaration, it must have been in the high-bailiff himself. However, let us suppose, that some other person was guilty of an affectation of delay between the 12th and 30th of April, or between the 30th of April and 12th of May, when the high-bailiff made his declaration in favour of the noble lord who now moved for his attending, and for his being asked this question: was it not the high-bailiff's duty to have made his complaint to this House the very first day of the session? But instead of this, he neglects to make any complaint for several days after our first meeting; and at last a Petition being presented to us by a very great number of the elec-

laid upon the high bailiff by the House of Commons, to complain to them if he met with any obstructions, lord Trentham's party, who were conscious they had a majority upon the whole of about 170, had the spirit to push for a decision, as well knowing that whatever return the high bailiff might make, they should be able to carry the election in the House. The high bailiff, it was thought, had his reasons for not hurrying the determination; and Mr. Crowle, who was one of the counsel on behalf of sir George Vandeput, being a very warm man, had made use of many irritating expressions, which the other party threatened to complain of. The matter, however, was kept in agitation during all the session; but no sooner were the Tower guns fired upon its being finished, than Mr. Crowle told his antagonist, that their threatenings now were but "bruta fulmina," as the House had no further any power. This, and a great many other exasperating expressions passed; but when the high bailiff, contrary to the expectation of sir George and his friends, returned lord Trentham, the behaviour of the other party became more indecent and provoking than ever; and two Petitions were presented to the House against lord Trentham's election, one from sir George's electors, and another from himself, both of them complaining, in very severe terms, of the high bailiff's injustice and partiality. Upon this, lord Trentham, who had now taken his seat, produced letters from the heads of sir George Vandeput's party, dated the very night before the return was made, directed to the high bailiff, and greatly commending the firmness and impartiality of his proceeding. His lordship, at the same time, insisted, for his own vindication, that the matter should be brought before the House, and both parties were ordered to be heard on the 6th of February." Tindal.

* From the London Magazine.

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tors, complaining of the injustice of his return, of the irregularity of his proceedings, and of his having protracted the election for gain, he is called upon to come and retort the accusation; and, I suppose, it is by this question intended, that we should examine into this retorted complaint, and punish the persons accused by him, before we make the least enquiry into the original complaint against him.

This, Sir, I can now see, is the intention of the noble lord, who moved for this gentleman's being ordered to attend immediately; and I can foresee, that this gentleman's complaints will be directed chiefly against those, who were the managers upon the scrutiny for the unsuccessful candidate; because, from the nature of things, those managers must be the chief, if not the only witnesses, upon whom the petitioners can depend, for proving the grounds of their complaint against him. This, I say, Sir, seems plainly to be the intention of those, who desired the immediate attendance of this gentleman; but it is an intention, to which the House will not, I hope, give any countenance. What the gentleman may now allege, or whom he may accuse, I do not pretend to any certain knowledge of; but in charity to him, I must suppose, that he met with no material obstruction in any part of the late election for Westminster, because I cannot suppose otherwise, without deeming him guilty of a neglect of duty, in not bringing his complaints before this House, either before the close of last session, or presently after the opening of this. If he really has any such complaints, it seems to me that he was conscious of some breach of duty in himself, and that he was willing to compound with the petitioners, on condition, that if they would not complain against him, he would wave complaining against them, or any of their friends; which is a sort of composition, this House, I hope, will never countenance nor encourage.

But now supposing, Sir, that he was very much, and very riotously obstructed in the late election, and that his not complaining of it sooner, proceeded solely from neglect, or too much good-nature, will not these complaints come naturally and necessarily before us upon hearing the merits of the election? Can they come regularly before us in any other manner? If the complaints be such as no way relate to the election, they must be such as we have no right to enquire into: if they do relate to the election, can we regularly or justly enquire into them, before the day we have appointed for hearing the merits of that election? The parties concerned will then be all properly before us; whereas, if we proceed to hear the complaints of the high-bailiff before the day appointed for hearing those against him, it will be a hearing *ex parte*, which is a method always unjust, and, in the present case, it is a method that may deprive the petitioners of their most material witnesses, or discredit the testimony of such as they can bring to be examined in support of their Petition.

I therefore hope, Sir, you will not at present give this worthy gentleman, the high-bailiff, any further trouble, but leave him to make good his defence, when the matter comes regularly before us, either by justifying or recriminating, or both, as he shall then think fit, this is what I think you should do; and therefore I shall conclude with moving for the order of the day.

Lord Viscount *Coke*:

Sir; as this House had last session, in the most solemn manner, given the high-bailiff directions relating to the Westminster election then depending, I am surprised how any gentleman could be at a loss for the reason of desiring him to attend. Surely, it is incumbent upon us, to enquire how the directions we then gave were pursued: and is not the high-bailiff the most proper, and the only proper person for answering such a question? As to the intention of the noble lord who moved for his attending, I believe I am well acquainted with that noble lord's intentions; and I am persuaded, he had no other intention, but that the House might be informed of what we have a right to know, and what it is our duty to enquire into. As this, I say, was our duty, the high-bailiff, no doubt, expected such a motion, and thought that it would have been a little too forward in him, to have come here with any complaint, before such a motion was made.

For this reason, I think, Sir, we are much obliged to the noble lord for putting us in mind of our duty; and this every gentleman was so sensible of, that no one stood up to oppose his motion; but now, when they see a danger, that our pursuing this motion, by doing what we ought to do in consequence of it, may affect some of their friends, they object to it; for it is

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impossible to suggest an argument against our proceeding, that will not militate as strongly against our having begun. But as we have already begun; as we have the high-bailiff now before us, and as he has already told us in part, that he was obstructed by some persons, and prevented from pursuing the directions of this House, what would the world think of us, should we now stop short, and make no enquiry into the persons that had been guilty of a breach of our orders, so solemnly and so lately issued?

Sir, if the high-bailiff met with any interruptions or insults in the execution of his office, our enquiring into, and punishing them, has nothing to do with the merits either of the election or return. Suppose that he had been guilty of manifest injustice with respect to both, are we to allow any person, or any number of persons without doors, to judge of that injustice, and to interrupt or insult him on that account? No, Sir, in all such cases we are first to vindicate our own authority, by punishing the persons who had taken our jurisdiction upon them without our leave; and then, if upon hearing the merits of the election, it should appear, that the returning officer had been guilty of manifest injustice, we ought, and certainly would punish him for that injustice.

This, Sir, I take to be the regular method of proceeding in all such cases; and in the present it is the more necessary, because of our having last session interposed, and given express directions with regard to this election; for if after that, any person dared to interrupt or insult our officer in the discharge of his duty, it was a higher contempt of our authority, than it could have been, had we never interposed, but left it to the common law of parliament. Shall we in such a case delay vindicating our authority, till the merits of an election be determined? Especially such an election as this of Westminster, which may take up the whole time we have to spare in this session; and if the petitioners should protract the decision, as well as they did the election, by an affected delay, it may never be determined; consequently, we shall never have an opportunity to vindicate our authority, or to punish those who have been guilty of so high a contempt.

The high-bailiff has already informed us of one sort of contempt, and may, perhaps, inform us of several others, if we shew that we are resolved to do what we ought to do upon the occasion. The contempt he has informed us of must, it is true, have been committed by the agents or managers for one or other of the candidates, but he has not as yet told us by whom; and whatever reason the noble lord may have for judging, that he will charge it upon the agents of the petitioning candidate, I am sure the House has no reason to suppose, with any certainty, that he will not charge it upon the agents of the candidate returned. But suppose he should charge it upon the agents of the petitioning candidate, can this any way affect the merits of the election? If the petitioning candidate has the right on his side, can his right be injured or lessened by his agents having misbehaved themselves, or by our punishing them for that misbehaviour? Therefore, as the misbehaviour of the agents, let it be on what side it will, has nothing to do with the merits of the election, our proceeding to enquire into that misbehaviour, before the day appointed for hearing the election, cannot be called a hearing *ex parte*. It is quite another affair, and when the high-bailiff has told us who they were that thus misbehaved, the House will certainly appoint a day for their attendance, when we shall have all the parties concerned in this particular affair regularly before us, and may then proceed to a determination, which, let it be what it will, can no way injure or promote the cause either of the sitting member or the petitioner, with regard to the merits of the election.

But this of protracting the election by an affected delay, may not, perhaps, Sir, be the only contempt of our authority that has been committed: in such a popular election there may have been other sorts of contempt, and contempts of a more heinous nature; and for the sake of preserving the freedom of elections, we are in duty bound to enquire into and punish every kind of contempt that may any way encroach upon that freedom; but can we expect any farther information from this gentleman, if after the information he has given, we should appear so very indifferent about vindicating our own authority, as not to ask who were the persons that were guilty of the offence he has already informed us of? Do not we all know, that the most effectual way for preventing the execution of any law, is to stifle, or not prosecute the informations brought against persons that have been guilty of a breach

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of it? And is not every magistrate that does so, most justly charged with a connivance at the crime? What then may be said of us, if after being told of a breach of our orders, we should wave being at the pains to ask who the persons were, that were guilty of that breach?

For this reason, Sir, the question now proposed to be put to the high bailiff, is a question in my opinion, that we are obliged to put, for the sake of preserving the freedom and regularity of elections, and the dignity and character of this House; therefore, I hope, the noble lord will withdraw his motion.

Dr. *George Lee:*

Sir; the noble lord who spoke last has most ingeniously shewn, what plausible arguments may be made use of in favour even of the worst of causes; but notwithstanding all he has said, no gentleman that will make use of an impartial judgment, can be misled with respect to the question now under consideration. The affair now before us is plainly and shortly this: by the Petitions, which we have just ordered to be heard on so short a day as tomorrow se'ennight, the high bailiff stands accused, among other things, of having protracted the late Westminster election for gain: what did you call him for? What would you examine him for? To prove that he did, or to prove that he did not? For my part, I wonder that, in such circumstances, he agreed to answer at all to any question put to him relating to the crime of which he stands accused; for surely, he is not obliged to confess, or condemn himself: and he must be sensible, that nothing he can now say in his vindication, will have any weight with men of true and impartial judgment. He may, if you encourage him, turn informer; but as he now stands accused, he ought first to vindicate his own character, before he can expect that any credit will be given to his information; and I am sure, it is not the way to come at the discovery of any crimes, to admit persons accused to become informers against their accusers.

But it is said, we are in duty bound to enquire how the directions we gave last session have been complied with. Sir, they have been complied with; we have our member now in the House; and no complaint has been made of any breach of our orders then issued, but what is contained in the petitions now presented to us. Will any gentleman say, that we are bound to set ourselves up as a court of inquisition, and to enquire from time to time whether any breach of our orders, or any breach of privilege, has been committed? No gentleman who has a regard to our constitution, or to the existence of this assembly will seriously say so. If no member had been yet returned for Westminster, we should then have been obliged, the very first day of the session, to have sent for the returning officer, in order to know from him, why he had not made a return; but as a return was made, we had nothing further to do with the order or directions given last session, nor could we regularly enter into any enquiry about what was done in pursuance of those directions, until some complaint was made of a breach. Therefore the high-bailiff had no ground to expect any motion for his attendance, in order to give the House an account of what he did in pursuance of those directions. On the contrary, if any one interrupted or molested him in the discharge of his duty, he was by those very directions obliged to apply immediately, and as often as it happened, to this House, for the protection of himself, and the punishment of offenders; and as the offence he now complains of, must have been committed during the sitting of last parliament, his not applying for our protection before the recess, must discredit the information he has now been pleased to give, and ought to be a prevailing reason with us, not to make any use of his information, till we have first discussed the accusation before brought against him.

As to any other informations he may be pleased to give, Sir, for that we shall have abundance of them, if we encourage him, I make not the least doubt, but of whatever kind they may be, I can say nothing of them till I hear them, nor can they have the least influence upon the question now before us, which is properly and only this, Whether we should ask him, by whom, and by what means the election was protracted? To what purpose should we ask him such a question? He may tell us by whom, and by what means it was, in his opinion, protracted; but is it possible for us to judge, whether his opinion be right, till we have the whole merits laid before us? And the House will not, I hope, implicitly yield to what he pretends to be his opinion. If we do, I am sure, it will most nearly affect the election; for the petitioners would be mad to proceed in their Peti-

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tion, should they find the House inclined to believe implicitly whatever this worthy gentleman delivered as his opinion.

The question now proposed to be asked him can therefore answer no end, Sir, but that of precipitately and unjustly defeating any enquiry into the merits of the election; consequently, to ask him such a question, must either be ridiculous or unjust. But it is said, Sir, that if we do not ask him this question, we shall discourage him from giving us any further information. I have said before, Sir, that this House ought not to set itself up as a court of inquisition; and none but such a court will ever fish for crimes or informations: informers are a race of men, that never were encouraged but under tyrannical governments; and to set up an accused criminal as an informer at large, is a practice that never will, I hope, be introduced in this country. I say, Sir, an accused criminal; for if the high-bailiff protracted the election for gain, it was criminal: and should it be fully proved, which I hope it will not, he will deserve a most severe punishment. Had he come before the end of last session, or at the beginning of this, and before any accusation was lodged against him, to have informed us of his having been interrupted or insulted in the execution of his office, he ought to have met with encouragement; but now, so far from encouraging him, I think, we ought not to receive any information he can give; nor can the authority of this House suffer, or the safety of our officers be exposed, by laying this down as a rule in the case now before us, because if he met with any material interruptions or heinous insults, they will be made appear in the course of our examining the merits of the election, when we may inflict such punishments as we then think proper upon the offenders; nor can we till then determine what punishments may be proper; for though we are not to allow the mob, or any person without doors, to judge of the behaviour of our officers, yet if it should appear, that any one of our officers had been guilty of flagrant injustice, and had thereby provoked people to insult him, it would very much extenuate the guilt, and consequently ought to lessen the punishment of the offenders.

From this consideration alone, Sir, it is evident, that should the high bailiff proceed, and inform us of other malversations during the late election for Westminster, we cannot enquire into them, or inflict proper punishments, till we have entered into the merits of the election; and consequently our desiring any present information from him, can answer no good purpose. In short, Sir, it is really making him a witness in his own cause; and should we proceed to give judgment upon any information he may be pleased to give us, it would be a hearing *ex parte*; for though we should appoint a day for the attendance of those that may be accused by him, we could not have all parties concerned before us, because the petitioners are now parties concerned in every thing relating to the election; and to proceed to judgment upon any point without them, is a method of proceeding that never was, nor ever will, I hope, be practised in this assembly; for in the most riotous election that was ever controverted, I defy any gentleman to shew, that we ever proceeded to enquire into and punish the rioters, before the day appointed for hearing the election; and in the present case there is less reason for such a precipitate method of proceeding, than can well be in any other, because of the short day appointed for our hearing the merits of this election.

The noble lord was pleased to say, that the most effectual way to prevent the execution of a law, is to stifle the informations brought for a breach of it; but, Sir, I believe, even his lordship will admit, that the most effectual way to prevent any future informations or prosecutions, would be to encourage persons accused to become informers against their accusers. Would it be just in any court to send for a person indicted before them, and ask him whether he could bring an information against the prosecutor or any of his witnesses? Would it not be adding to that injustice, to proceed to trial upon his information against the prosecutor or his witnesses, before proceeding to the trial upon the first indictment? If gentlemen will but allow themselves to consider, the case now before us is of the very same nature, and will, in my opinion, be equally unjust. Therefore, I hope, the House will suspend their curiosity but till to-morrow se'ennight, when they may be duly and authentically informed of every thing relating to this election, without which it is impossible to pass an impartial and solid judgment upon any point relating to it.

Mr. *Henry Fox*:

Sir; when I consider the whole circumstances of the election, to which the

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affair now before us has some sort of relation, I am surprized how any gentleman can object to what is now proposed. The writ for a new election for the city of Westminster was ordered the 16th of November was a twelvemonth, and was presently issued accordingly, on which the precept from the sheriff was forthwith issued, and delivered to the high bailiff, who is the returning officer for that city. It was natural to expect, that before the 22d of February following, he would have made a return; but as he did not, a motion was then made for an enquiry why he had not, and he with the other officers concerned were ordered to attend next day, when he informed us, that he was then in the execution of the said precept; that he had all along endeavoured to avoid all unnecessary delay therein, and that if some delay had happened in the scrutiny of the poll, which he was then proceeding upon, it had been such only, as he did not think he had sufficient powers to prevent or remove; whereupon he was directed to expedite the election as much as possible, and to apply to this House, if he met with any thing to obstruct him in the discharge of his duty, which he could not prevent.

Having thus, Sir, received our express orders to expedite the election, and being armed with the whole power of this House, one would have thought, that he might soon have made a return; but though we continued sitting till the 12th of April, no return was made, to the surprize of every gentleman who knew any thing of the nature of elections, and the necessity of making every return as soon as possible. It is true, Sir, a return is now made; but is this a sufficient excuse for such an unheard-of delay? Ought this to prevent our enquiring into an affair, that may in future times be of such dangerous consequence to our constitution? The Petitions presented against the election and return have nothing to do with this affair; because it is an affair which we ought, and certainly would have enquired into, if no petition had been presented. But can we, or ought we to enter into such an enquiry without first examining the returning officer, who must be supposed criminal, or at least negligent, unless he can shew us some reason for such a long delay in an affair, which required the quickest dispatch?

The method we are now in is therefore, Sir, the most proper, and, indeed, the only method we could take for enquiring into this affair. It is an affair in which our own honour is concerned; and shall we allow such an affair to lie at the option of the petitioners, whether they will proceed in their petition or no? we have called the high bailiff before us, not to ask him whether he has made a right return, or whether he did justice to the electors in every part of the election, but why he so long delayed making a return, why he did not sooner yield obedience to the directions we gave him last session? If he can shew us good reasons why he did not, he will stand acquitted as to this charge, even though he should be afterwards found guilty of injustice both as to the election and return: If he should not be able to shew us any good reasons for such a delay, he will stand condemned as to this charge, and will certainly be punished for it, though it should afterwards be found, that he hath faithfully done his duty both as to the election and return. The order we made, or the directions we gave last session, may therefore be compared to a rule of court made by any of the courts below, in a cause then depending before them; and when any such rule is made, the court may, surely, before the hearing of the cause, enquire whether that rule has been complied with. Nay, it is incumbent upon the court to do so, when there is a vehement suspicion, or a strong appearance of neglect.

This, Sir, is our case at present; and, therefore, we cannot now be said to be acting the part of a court of inquisition: we are not fishing for crimes or for informations: quite the contrary, we are fishing for innocence: an offence seems to have been committed: a particular gentleman seems chargeable with that offence; and we are going to give him an opportunity to shew his innocence. He has already, by way of defence, informed us of a very material fact: ought not we to enquire into the truth of that fact? Can we enquire into the truth of it, without knowing the names of the persons charged with it? and if upon enquiry it should be found to be true, and we should punish the offenders, can it any way injure the petitioners? Sir, suppose we should find, from the information of the high bailiff, that some persons had protracted the election by an affected delay, does that prove, that he did not protract it for gain, as the petitioners allege? Not at all, Sir; for both may be true: nay, probably, both are true: the election was perhaps a good milch cow for some of the agents, as well



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as the returning officer, and both resolved to milk her as long as they could.

Therefore, Sir, as the question now proposed to be put to the high bailiff can no way injure the petitioners, or in the least affect the merits of the election or return; and as it relates to a fact, which we ought to enquire into as soon as possible, I hope, it will be put to him before we proceed to any other business.

Sir *Richard Lloyd* :*

Sir; I hope the hon. gentleman who spoke last will excuse me, if I was one of those who never was surprised at the tediousness of the Westminster election; and indeed, I never did suspect that it was any way unnecessarily delayed, till I heard the Petition this day presented. Considering that the right of voting for that city was never yet determined by this House, and the vast number, as well as various kinds of persons that pretend to a right of voting, I foresaw, that when the election was so strenuously contested, and the contending parties so equally matched, the scrutiny must take up a very long time, before the high-bailiff could make a return with any knowledge or justice; for I was too well acquainted with the unavoidable tediousness of all disputes that depend upon the proof of a great number of facts, to imagine, that such a scrutiny could be ended in a few days, or even a few months; therefore the high bailiff's delay in making the return, was with me rather a presumption that he was resolved to do impartial justice, than that he protracted the election either for gain, or from any other unjustifiable motive; and consequently, if he had not been accused, I should never have suspected his being guilty of any offence.

This, Sir, being my way of thinking, I cannot be of opinion, that we have any reason for enquiring into the high bailiff's conduct, except that which is founded upon the charge contained in the Petitions now before us; and that charge we cannot certainly make the least enquiry into, before the day we have already appointed for that purpose. I shall most readily grant, Sir, that we have a right to have a return made, as soon as possible, to every writ issued for chusing the members of this House: and that, when an unreasonable delay is made, we ought to enquire into it, even though no complaint be lodged against that delay: but when a Petition has been presented, complaining, among other things, of that very delay, and a day actually appointed for hearing the matter of that Petition, I must be so free as to say, that an enquiry set on foot before that day, and without the privity of the petitioners, looks more like a design to defeat justice than inflict punishment; and if we proceed, I am afraid, this will be the remote consequence, whatever may be the immediate design; for I am far from thinking, that the noble lord who made this motion, has any such design; but if this should be the consequence; if the petitioners should be by our method of proceeding so intimidated or discouraged, as to withdraw their Petitions, and the returning officer, of whom they so heavily complain, escape all punishment or censure, whatever we within doors may think, the people without doors will all conclude, that this extraordinary method of proceeding was designed to defeat justice, and to screen a public criminal from punishment; which, I am sure, can no way add to the honour or the authority of this assembly.

With impartial people without doors, it will be in vain, Sir, to plead the order made last session, as the cause of our proceeding in such a manner. That order was to all appearance duly complied with before this session began, and no complaint of any breach of it till this day that the Petitions were lodged. It will therefore be thought very extraordinary in us, to call upon the high bailiff after he has been thus accused, to accuse others; and still more extraordinary, to proceed to hear the second complaint before we have heard the first, especially as the day appointed for hearing the first is so near at hand. This can never be warranted or justified by the practice of any of the courts below; for when a rule of court is made, they never enquire how it has been complied with, unless it appears not to have been complied with, or a complaint be lodged by some party concerned, that it has not been duly complied with; and even in that case, if it relates to the hearing of the cause, they put off hearing the complaint, till the cause comes on to be heard.

The hon. gentleman was pleased to say, Sir, we are not fishing for crimes or informations, but for innocence; whose innocence can we be now fishing for? It is evident from what I have said, that by the nature of the case the high bailiff cannot stand accused of any breach of our order, or of

* Made Solicitor General in 1754.

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any offence; he stands accused only by the Petitions now before us; and as to his innocence with respect to that accusation, we can fish for it no way, but by giving a speedy and impartial hearing to those Petitions. I therefore cannot comprehend why he was ordered to attend: surely, it was not to be examined as a witness in his own justification; can he be deemed a legal evidence for that purpose? An eminent and a very honest judge once said, he would not trust himself with an illegal evidence; because even an honest man might be prejudiced, without knowing it, by the artful testimony of such an evidence. Shall we then examine a witness that all the world must allow to be illegal? But if he was not called for this purpose, what else could he be called for? I hope it was not to accuse his accusers; if it was, he ought not to have complied; it would have been but modest in him, to have told us, that the delay of the return proceeded from the nature of the election, and the multitude of persons whose right of voting was to be enquired into; and he might have added, that as to any other cause of delay, after he had justified himself as to the accusation brought against him by the petitioners, he would shew, that it proceeded from others and not from him. This, I say, would have been but modest, and what, in my opinion, a man truly innocent would certainly have chosen; but since he has been pleased to take another method: since he has set out with accusing his accusers, or the friends of his accusers, I will say, that, if we allow him to go on, we are fishing for crimes and informations, and that in as foul a channel as ever they were fished for.

A noble lord was pleased to say, Sir, that the House has yet no reason to suppose, that he will charge his accusers, or the friends of his accusers, with the offence he has mentioned. Sir, whatever that noble lord may have reason to suppose, I am persuaded, there is not a gentleman in the House but expects, that his charge will fall upon some of the agents for the petitioning candidate, and very probably upon such as may be the most material witnesses against him at the hearing. Whether they were guilty or no, it is not my business to enquire; nor can it, I think, be the business of the House, till the matter comes regularly before us. Perhaps it may then be found, as the hon. gentleman who spoke last suggested, that the agents for both candidates, as well as the returning officer, protracted the election for gain; but the offence was much more heinous in him than in them, because his making any gain was expressly against law, and contrary to his duty, whereas they might honestly and lawfully take a reward for their labour and attendance. Besides, if they were guilty of any affected delay, in order to enhance their gains, it was his duty to prevent it; and ever since the 23d of February last he was armed with the whole power of this House for that very purpose. Therefore, if they were all guilty of such an offence, he was the principal, they were but accessaries: will you try the accessaries before the principal? And if you are not now to proceed to trial, why should you now desire to be informed? In short, Sir, we are got into an affair, which, to say no worse of it, has in my opinion, a very bad aspect; therefore the sooner we get out of it, the better; for which reason I shall most heartily concur in the motion for the order of the day.

Here the debate ended, and the House divided, Yeas 204; Noes 106. The question proposed being put to the high-bailiff, he named Mr. Crowle, who had been employed by sir George Vandeput, as his counsel in carrying on the scrutiny. Then being farther examined, he complained of ill treatment offered to him by several persons upon account of his behaviour, in relation to the said election and return; on which he was required to name the persons, and he named the hon. Alexander Murray, and Mr. John Gibson, an upholsterer, both of whom had been zealous and active in favour of sir George Vandeput.

Upon this it was moved, that Richard Crowle, esq. do attend that House on Thursday next; which motion was likewise strenuously opposed, but being carried in the affirmative, he was ordered to attend accordingly, as was also Mr. Murray and Mr. Gibson; and the high-bailiff was ordered to attend on the same day, to make good his charge against them.

January 31. The said several persons attending, the high-bailiff proceeded to make good his charge against Mr. Crowle, who, in justification of himself, said, That after the high-bailiff had received the order of that House, during last session to expedite the election, he took occasion from thence to hurry the scrutiny on so



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fast, as not to take time to do justice to his clients; that thereupon he insisted on his taking sufficient time for that purpose, in which light he might be said to protract the scrutiny, and he gloried in having done so, as it was a duty he owed to his clients; and the high-bailiff having likewise charged him with speaking contemptuously of the Order of the House, he said, that as to his reflecting upon the Order of that House, he had too great a regard for it, and knew too well the effect of any orders issued from that chair, which was now so worthily filled, even to entertain a disrespectful thought of any order coming from thence; and that the words he was charged with, were meant only to relate to the order's coming improperly from the unhallowed lips of the gentleman who stood by him.

Upon this a motion was made, That the high-bailiff be directed to produce his evidence upon his charge against Richard Crowle, esq. which was objected to, as Mr. Crowle had acknowledged the whole charge; but after some debate, the motion was agreed to, and several witnesses were examined on the part of the high-bailiff, as also one witness on the part of Mr. Crowle; after which a motion was made to resolve, "That it appears to this House, that Richard Crowle, esq. during the late scrutiny of the poll for the city of Westminster, after he had full notice of the orders of that House, given to the high-bailiff of the said city, to expedite the said scrutiny, did wilfully and designedly protract the same; and when he was reminded of the said orders by the high-bailiff, did publicly avow and declare he had done so; and did utter disrespectful words in contempt of the authority of this House." This motion was, after a long debate, carried in the affirmative. Whereupon it was ordered, that Mr. Crowle should then be brought to the bar, and upon his knees reprimanded by Mr. Speaker for his said offence, which he accordingly was, and discharged, paying his fees; and then, being very late, the consideration of the charge made by the high-bailiff was ordered to be adjourned till next morning.

*Proceedings in the Commons relating to the Hon. Alexander Murray.**] February 1. The House resumed the consideration of this remarkable affair; and the high-bailiff and Mr. Murray being called in, the former stated his charge against the latter, which was an account of some threatening or affronting expressions made use of by Mr. Murray against him, most of them after the election was over, but did not charge him with any act of violence, either before or after the election was over; and Mr. Murray having in general denied the charge, and desired to make his defence thereto by counsel, part of an act made in the 20th of his present majesty intitled, 'An Act for allowing persons impeached of high-treason, whereby any corruption of blood may be made, or for misprision of such treason, to make their full defence by counsel,' was read; after which Mr. Murray being asked, whether his counsel were ready to proceed, he answered, that he had sent for them, and that he was ready himself, but did not know whether they would be ready to proceed that day; whereupon the following orders were agreed to, 1. "That Mr. Murray be admitted to be heard at the bar of this House by his counsel, upon the charge made against him by the high-bailiff. 2. That the high-bailiff be admitted to be heard by his counsel in support of his said charge, if he thinks fit. 3. That the said Mr. Murray should be taken into the custody of the Serjeant at Arms attending this House; and that, when he should be in such custody, the Serjeant at Arms do take such bail, as shall be approved by Mr. Speaker, for the said Mr. Murray's attendance upon this House, from time to time, as often as he shall be required thereunto. 4. That the further consideration of that part of the said charge, as relates to Mr. Murray, be adjourned till the 6th instant. 5. That the charge made by the high-bailiff against Mr. Murray, be by him put into writing, and delivered to the clerk of this House; and that a copy of the said charge be delivered to the said Mr. Murray."

Of these orders, the third was warmly opposed, as being different from their method of proceeding upon any breach of privilege, in all which cases the persons complained of were never taken into custody till after they had been fully heard in their defence, and as being a prejudging

* "When Mr. Murray was brought to the bar of the House, February 1, he was charged by the high bailiff with a riotous behaviour when the scrutiny was over, and with threatning him and committing other acts of violence, after the return was made. Mr. Murray de-

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of the cause, before they had examined it, or knew any thing of it; and that in this case such a proceeding would be the more extraordinary, as the offence alleged consisted solely in words, of which no complaint or information had been made for above eight months after the offence had been committed, and even then, not till an accusation had been lodged against the informant, upon the trial of which accusation, the persons he informed against, might very probably be the most material witnesses; whereas, in one of the highest offences which can be committed by words, which is that of denying the king's right to the crown, or denying the Trinity, the information must be brought in three or four days after the words spoken, the words must be proved to have been spoken maliciously, directly, and advisedly, and the prosecution must be in three months after the information. However, as the law of parliament was different from the common or statute-law, and as it was thought necessary to vindicate the dignity and authority thereof, the question was carried by a great majority, and Mr. Murray was accordingly taken into custody, and immediately gave bail for his appearance.

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sired to be heard by his counsel, which was granted him, the same indulgence being given to the high bailiff. In the mean time, a motion was made for putting Mr. Murray into the custody of the serjeant at arms; but that he might give such bail for his appearance as the Speaker should approve of. A great many of lord Trentham's friends, Mr. Pelham in particular, were far from being clear as to the equity of this motion; and some of them privately disapproved of it, as being, in fact, punishing a person before he was proved to be guilty, or even heard in his own defence. Various cases, in the inferior courts of judicature, were urged against this proceeding. But lord Coke, and several of the young nobility, insisted so strenuously upon the commitment, that the ordinary forms of justice in inferior courts were dispensed with; and it was ordered he should be committed, and that the charge against him, which was to be delivered to him in writing, by the high bailiff, should be heard upon the 6th. Mr. Murray, accordingly, was taken into custody, and gave bail for his appearance. Upon the 6th, the consideration of Mr. Murray's case was resumed; his counsel was heard, as was the high bailiff for himself, and several witnesses were examined; some of them gentlemen of fortune and character, who seemed, indeed, to disprove the whole of the charge against Mr. Murray. Notwithstanding this, the House, after a very long debate, came to the following Resolution: "That, &c." (see above).

"This motion being agreed to after a division of 152 against 69, the House came to another Resolution, That Mr. Murray should be committed close prisoner to Newgate; and another Resolution passed, that he should be brought to the bar of the House, to receive his sentence upon his knees. All those Resolutions occasioned violent debates, and many gentlemen, who had always voted for the ministry, left the House on this occasion. It was thought, that lord Coke, and others of the young members, had some intimation, that Mr. Murray (which indeed was fact) had declared he would not submit to kneel at the bar of the House, which was the reason why this act of humiliation was added to his censure. Mr. Pelham was afterwards heard to blame some of them, for concealing that intimation from him; for, had he known it, he would have been against the question. When Mr. Murray was brought to the bar, he accordingly refused to kneel, which greatly alarmed all the moderate members, who, like Mr. Pelham, had suffered the motion to pass as a matter of form. After the Resolution was taken, they could not dispense with the prisoner's kneeling, and his former crime was aggravated by his obstinacy, while the honour of the House called aloud to be vindicated. On the other hand, the young members were at a loss how to proceed, as the House could inflict no severer punishment than imprisonment. Some of the most violent mentioned a severer kind of imprisonment than that of being committed to Newgate, and a committee was even appointed to consider what methods might be proper to be taken by the House in relation to Mr. Murray's contempt. Mr. Murray that very night, or rather morning, for it was near one before the House broke up, was carried to Newgate.

"This case now became interesting, and his friends discovered a kind of triumph, when sir Wm. Yonge reported from the committee, that there was no precedent of the power the House had to inflict any severer punishment upon him than what he was then undergoing. The opinions of the public were divided with regard to his conduct; some called it firmness, and others obstinacy. But it is certain the whole of it was owing to himself, without the advice or participation of any one. Upon his being committed, some of his relations were indulged by the House to have access to him; and his health appearing to be in danger, the House, upon the report of a physician who was allowed to visit him, offered to remove him from Newgate into the custody of the serjeant at arms. But he had the resolution to reject the offer, and to continue in Newgate till the end of the session. It was observed, that he made a kind of triumphal procession from Newgate to his own house, to which he was attended by the sheriffs of London, a large train of coaches, and the acclamations of the populace of his party." Tindal.

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The High-Bailiff then stated his charge against the said Mr. Gibson, containing an account of some words spoken by him during the election, reflecting upon the proceedings of that House, and of the legislature; and Mr. Gibson having denied the same, several witnesses were examined on both sides, and several members gave an account of what they knew of the matter; whereupon it was resolved, "That it appears to this House, that the said Mr. John Gibson is guilty of an high contempt of the authority and privileges of this House, by reflecting on the proceedings of this House, and of the legislature." In consequence of which Resolution, it was ordered, that he be for his said offence, committed prisoner to his majesty's gaol of Newgate, and that Mr. Speaker do issue his warrant accordingly. Whereupon he was that night sent prisoner to Newgate.

February 4. The Speaker acquainted the House, of his having been informed by the Serjeant at Arms, that he had taken into his custody the hon. Alexander Murray, and when in his custody, had taken bail for his attendance upon the House, from time to time, as often as he should be required thereunto, which bail he, the Speaker, had approved of. Thereupon it was ordered, that the said Mr. Murray do attend the House on Wednesday next.

Feb. 6. The order of the day being read, for resuming the adjourned consideration of that part of the Charge made to the House by the high bailiff of Westminster, which relates to Mr. Murray; the House resumed the adjourned consideration thereof: and the high bailiff, and the counsel for Mr. Murray, were called in.

And the Charge of the high bailiff against the said Mr. Murray was read; and is as follows:

The CHARGE of Peter Leigh, High Bailiff of Westminster, against the hon. Alexander Murray, esq.

"That the said Mr. Murray, on the 15th of May last, being the day of the return of a member for the city of Westminster, did, before the return was made, come to the house of Mr. Baldwin, the deputy high bailiff, attended by a mob; and then and there declared, in a menacing and insulting manner, that he, and a thousand more, had sworn that the high bailiff should make his return in the middle of Covent Garden, and not in the portico; that he was a fool he had not ordered the iron rails before the portico to be cut down the night before; that he had advised with counsel; that if he had done it, and had not taken the rails away, it would have been only a trespass, and that for 100*l.* or 150*l.* they might have been made good again; and that, had it not been to humour some faint-hearted fellow, it would have been done; or he used words to that or the like effect: and that the said Mr. Murray, soon after the return was made, and while the said Peter Leigh, the returning officer, was in the vestry room, appeared in Bedford-street, near the said vestry, and encouraged a mob, or multitude of people, there assembled, to proceed to acts of violence against the said Peter Leigh; after which the said Mr. Murray went into Covent Garden churchyard, at the head of a large mob, and did persuade the said mob to break the windows of the said vestry; which they accordingly did, and endeavoured to break into the vestry-room, while the said Peter Leigh was in the vestry-room; and that soon afterwards, as the said Peter Leigh, the returning officer, was going from the vestry-room to the house of the said Mr. Baldwin, the said Mr. Murray did, at the head of a mob, again endeavour to persuade them to acts of violence against the said Peter Leigh; saying, with imprecations, 'Will nobody knock the dog down? 'will nobody kill the dog?" or words to that effect; and that a few days after, the said Mr. Murray avowed his said wicked designs; and declared, that if his advice had been followed, the high bailiff durst not have returned lord Trentham; for that he, the said Mr. Murray, would have had the rails tore down, and laid the portico open, and then the high bailiff durst not have returned lord Trentham; or he used words to that or the like effect.

"PETER LEIGH."

And the high bailiff examined one witness, in support of the said Charge: and then the high bailiff, the counsel, and the said witness, were directed to withdraw: the high bailiff, and the counsel were again called in; and the high bailiff examined several other witnesses, in support of the said Charge. And having gone through his evidence, the counsel for Mr. Murray were heard, and examined several witnesses, in answer to the said charge. And

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the high bailiff was heard, by way of reply. And the said Mr. Murray was heard at the bar. And then the high bailiff, Mr. Murray, and the counsel, were directed to withdraw.

A motion was made, and the question being put, "That it appears to this House, that the hon. Alexander Murray, esq. on the 15th of May last, being the day of the return of a member to serve in parliament for the city of Westminster, attended by a mob, did, before the return was made, come to the house of Mr. Baldwin, the deputy high bailiff of the said city, and then and there declared, in a menacing and insulting manner, that he, and a thousand more, had sworn that the high bailiff should make his return in the middle of Covent Garden, and not in the portico; that he was a fool he had not ordered the iron rails before the portico to be cut down the night before; that he had advised with counsel; that if he had done it, and had not taken the rails away, it would have been only a trespass, and that for 100 or 150*l.* they might have been made good again; and that, had it not been to humour some faint-hearted fellow, it would have been done; or words to that effect: and that the said Alexander Murray, immediately after the return was made, appeared in Covent Garden church-yard, while the returning officer was in the vestry, near the place where the return was made, at the head of a mob, who appeared to be on the part of sir George Vandeput; and did then utter words, exciting and inflaming the said multitude to assault and murder the returning officer; and that afterwards, as the returning officer was going away, the said Alexander Murray, persevering in his wicked purposes, did, at the head of the said mob, again incite them to acts of violence; saying, with imprecations, 'Will nobody knock the dog 'down? will nobody kill the dog?' or words to that effect:" The House divided: Yeas 210. Noes 74. So it was resolved in the affirmative*.

A motion being made, and the question being proposed, "That the said Alex. Murray be, for his said dangerous and seditious practices, in violation and contempt of the authority and privileges of this House, and of the freedom of elections, committed close prisoner to his majesty's gaol of Newgate;" and an amendment being proposed to be made to the question, by leaving out the word "close;" the House was moved, That the Journal of the House, of the 23rd of February, 1741, in relation to the proceedings of the House, for the punishment of William Myddelton, esq. might be read. And the same was read accordingly; then the question being put, That the word "close" stand part of the question; the House divided: Yeas 169. Noes 52. So it was resolved in the affirmative.

Another amendment was proposed to be made to the question, by leaving out the words "his majesty's gaol of Newgate," and inserting the words "the Tower of London," instead thereof. And the question being put, That the words, "his majesty's gaol of Newgate" stand part of the question; it was resolved in the affirmative. Then the main question being put;

Ordered, "That the said Alexander Murray be, for his said dangerous and seditious practices, in violation and contempt of the authority and privileges of this House, and of the freedom of elections, committed close prisoner to his majesty's gaol of Newgate."

*Mr. Murray refuses to be reprimanded by the Speaker upon his Knees.*] A motion was made, and the question being put, "That the said Alexander Murray be now brought to the bar of this House, to receive his sentence there, upon his knees;" the House divided: Yeas 163. Noes 40. So it was resolved in the affirmative.

He was brought in accordingly; and by Mr. Speaker directed to kneel. And he having refused to be upon his knees, as required by the said Resolution; and being withdrawn;

Resolved, "That it having been resolved by this House, that the said Alex. Murray should receive, upon his knees, at the bar of this House, the said Sentence of this House against him; and he having, in a most insolent and audacious manner, at the bar of this House, absolutely refused to be upon his knees, as required by the said Resolution, is guilty of a high and most dangerous contempt of

* "Feb. 6. This day went to the House to hear the charge against Mr. Murray, brother to lord Elibank, for words spoken against the high bailiff, the day of his making the return for Westminster (15th of May last). After the trial was over, and the first question moved, I left the House, and returned to Hammersmith. Never saw an accusation worse supported by any thing but numbers." Dodington's Diary.

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the authority and privilege of this House."

Ordered, 1. "That the said Alexander Murray be committed close prisoner to his majesty's gaol of Newgate, in order to his forth-coming, to abide such orders as shall be made by this House, in relation to his said contempt. 2. That the said Alex. Murray, while in the said gaol (by virtue of the said order) be not allowed the use of pen, ink, or paper: and that no person be admitted to have access unto him, without the leave of this House. 3. That a committee be appointed to consider, and report to the House, what methods may be proper to be taken by the House, in relation to the said Contempt."

And a Committee was appointed accordingly.

Feb. 8. Upon motion it was ordered, that the lord Elibank should have leave to resort to his brother, Mr. Murray, then a prisoner in Newgate; and at the same time a person from the keeper of Newgate, having informed the House, that Mr. Murray was ill, and desired that Dr. Lamond, a physician and Mr. Cooke, an apothecary, might have leave to resort to him, it was ordered accordingly. After which, upon motion, the order for hearing the Westminster election was revived, and it was ordered to be heard on the 12th; but on that day the petitioners, upon motion, had leave to withdraw their Petitions; and the order for hearing the election was discharged, which put an end to this remarkable contest.

Feb. 13. Upon motion, it was ordered, that the hon. Mrs. Helen Murray should have leave to resort to her brother Mr. Murray; and that a nurse and another servant should be admitted to be with him; and next day Mr. John Gibson got his Petition presented to the House, expressing his sorrow for having incurred the displeasure of the House, giving the strongest and most solemn assurances of his never giving the least offence for the future, and praying to be discharged from his confinement; whereupon it was ordered, that he should be brought to the bar the next morning, in order to his being discharged; and that Mr. Speaker should issue his warrants accordingly. Next day he was accordingly brought to the bar, where, upon his knees, he received a reprimand from Mr. Speaker; and was ordered to be discharged out of custody, paying his fees.

*Report of the Committee appointed to consider the Methods to be taken in consequence of Mr. Murray's refusing to Kneel at the Bar of the House.*] Feb. 18. Sir William Yonge, according to order, reported from the Committee, appointed to consider and report to the House, what Methods may be proper to be taken by the House, in relation to the contempt of the hon. Alexander Murray; who being, in pursuance of a Resolution of this House, brought to the bar of this House, to receive his Sentence there upon his knees; and who, being by Mr. Speaker directed to kneel, refused to be upon his knees, as required by the said Resolution; that the Committee had considered the matter to them referred, and had directed him to make a Report thereof to the House; and he read the Report in his place; and afterwards delivered it in at the clerk's table: where the same was read: and is as follows:

"It appears to your Committee, upon searching the Journals of this House, that many persons, as well strangers as members, have either, in pursuance of the ancient practice of this House, or by special order, been required to receive their sentence, and, in some cases, their charge on their knees, at the bar (instances of which appear in the cases referred to in the margin*); and that no person, as far as your Committee can discover, hath at any time refused so to do, except David Jenkins, who being, according to order, 21 Feb. 1647, brought to the bar by the serjeant at arms, to answer to his charge, and, being required to kneel, did absolutely refuse.

"Your Committee observe, that the House hath, by a variety of punishments, enforced obedience to their orders; and that a breach of privilege, committed in

* 16 Feb. 1606, sir Chr. Pigot; 9 May 1621, Mr. Cooke; 4 June 1621, Mr. Damport; 7 July 1625, Mr. Montagu; 6 & 8 Aug. 1625, Mr. Clarke; 3 June 1626, Mr. Moore; 9 May 1628, Mr. Burgess; 12 May 1628, the Cornish Gentlemen; 9 & 10 Feb. 1628, sheriff Acton; 29 Dec. 1640, Mr. Peirce; 9 June 1641, Mr. Price and sir Wm. Widdrington; 8 July 1641, Mr. Whitaker; 2 Feb. 1641, sir Edw. Deering; 7 Feb. 1661, Mr. Chute; 8 & 9 April, 31 October, 11 & 14 November, 1670, sir John Prettyman; 23 October 1680, sir Robert Carr; 29 Oct. 1680, sir Francis Withen; 14 & 15 Dec. 1680, sir Robert Peyton; 11 Feb. 1694, Mr. Tracy Paunceforte; 15 & 16 April 1701, Mr. Shepherd.

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one session of parliament, hath been, and may be, punished in another; and that, when an order of the House, made in one session, hath been disobeyed in the whole, or in part (even in cases of contempt, much less injurious to the honour of the House than the present, such as absconding or refusing to pay fees, &c.) the same order hath been renewed in the next session.

"Your Committee also observe, that it is a standing order of the House, made 4th April 1707, That when any person, ordered to be taken into the custody of the serjeant at arms, shall either abscond from justice, or, having been in custody, shall refuse to pay the just fees, in either of these cases, the order for commitment shall be renewed the beginning of the next session of parliament; in consequence of which standing order, many persons were ordered to be taken into custody in the next session. And your Committee observe, that this standing order hath since been executed in several instances.

"Your Committee further observe, that the most usual method taken by the House, to enforce obedience to their orders, against persons already ordered to be taken into custody, or to be committed to prison, hath been by adding to the severity of their restraint.

"A remarkable instance of which appears in the case of John Trenche, the warden of the Fleet, who, for his obstinate refusal to deliver the body of sir Thomas Shirley, a member of this House, detained a prisoner in the Fleet, was committed close prisoner to the Tower, 8th May 1604: being sent for by the House, was by Mr. Speaker, by order of the House, terrified with the prison of Little Ease; and (the House finding him still perverse) received this judgment (11 May 1604) 'That, as he did increase his contempt, so 'the House thought fit to increase his pu-'nishment, and that he should be com-'mitted to the prison called Little Ease, 'within the Tower;' from which place the House (after having taken effectual care that their judgment should be put in execution 12th and 14th May 1604) did not release him until 17th May 1604, after sir Thomas Shirly was delivered, and until he (the warden) had been an humble suitor to the House for his liberty, and had expressed his sorrow for his offence, and his hope that, upon this acknowledgment of his fault, the House would be pleased to pardon his error, and receive him into their grace and favour.

"After which application so made, he was (17th of May 1604) ordered to be brought to the House, and acknowledge his offence at the bar, and humbly pray favour of the House upon his knees; and in the mean time was ordered to be freed from the dungeon called Little Ease. On the 19th of May 1604, being called in, he, on his knees, at the bar, confessed his error and presumption; and professed, that he was unfeignedly sorry that he had so offended this House. Upon which submission, Mr. Speaker, by direction of the House, pronounced his pardon and discharge.

"Upon the whole matter, your Committee humbly submit to the consideration of the House, that it highly concerns the dignity and power of this House to vindicate its authority in this instance; and though your Committee cannot but observe, that, notwithstanding the additional restraint which the House hath already laid Mr. Murray under, he hath not yet thought fit to make any submission: Your Committee desire leave further to propose, that, in indulgence to him, he be again brought to the bar, by order of this House; and that, in conformity to the precedent before-mentioned, Mr. Speaker be directed to put him in mind of the greatness of his contempt, and of his continued contumacy; and to acquaint him, that if he doth not submit forthwith to the order of the House, such further punishment will be inflicted upon him as this House shall think proper."

Feb. 22. The House being informed, that Mr. Murray was still so very bad in Newgate, that it was necessary for his being blooded, and that Mr. Golding had many years been his apothecary and surgeon, and consequently best acquainted with his constitution, therefore it was moved and ordered, That the said Mr. Golding should be admitted to resort to him; and on the 25th, Dr. Lamond, and Mr. Cooke the apothecary, attending, the former was called in, and after a very strict examination, as to the present state of Mr. Murray's health, though the doctor affirmed, that it was still very bad, it was resolved, that no person, allowed by that House to resort to Mr. Murray, should have, without fresh leave of the House, any further access to him, except doctor Lamond, and Mr. Cooke, and except the



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nurse who had been allowed to be with him; so that henceforth he was deprived of the company of his brother and sister, and the attendance of his own apothecary and servant.

April 2. The House being informed, that Dr. Lamond, who was admitted to resort to Mr. Murray, was attending at the door, and was desirous of giving the House some information relating to the said Mr. Murray. Dr. Lamond was called in; and acquainted the House, that he had this day attended Mr. Murray; that he apprehended him to have the gaol distemper coming upon him; and that he left him so extremely ill, that, if he be not immediately removed from the place of his present confinement, there would be no possibility of saving him. And then he withdrew.

Ordered, 1. "That the said Mr. Murray, committed by this House close prisoner to his majesty's gaol of Newgate, in order to his forthcoming, to abide such orders as should be made by this House, in relation to the high and most dangerous contempt of the authority and privilege of this House, committed by the said Mr. Murray, upon Wednesday the 6th of February last, be discharged from his said confinement there, and delivered over into the custody of the serjeant at arms, attending this House, in order to his the said Mr. Murray's forthcoming, to abide such orders as shall be made by this House, in relation to his said contempt; and that Mr. Speaker do issue his warrants accordingly. 2. That a physician, to be appointed by Mr. Speaker, do attend the said Mr. Murray, while in the said custody of the serjeant at arms, in order to give satisfaction to the House, from time to time, in relation to the state of the said Mr. Murray's health; and that Mr. Speaker do issue his warrant accordingly. 3. That no other person be admitted to resort to the said Mr. Murray, while in the said custody of the serjeant at arms, except such other person or persons as Mr. Speaker shall, from time to time, think fit to authorize, by his warrant, so to do, upon proper application to be made to Mr. Speaker, for that purpose; and that Mr. Speaker be empowered to issue his warrants accordingly. 4. That the said Mr. Murray, while in the said custody of the serjeant at arms, attending this House, be not allowed the use of pen, ink, or paper, otherwise than as Mr. Speaker shall, from time to time, think fit, by his warrant, to authorise the same; and that Mr. Speaker be empowered to issue his warrants accordingly."

April 3. The Speaker informed the House, that the deputy of the Serjeant at Arms had something to communicate to the House, relating to the execution of the orders yesterday made, for removing Mr. Murray from Newgate, into the custody of the said Serjeant at Arms.

And the said deputy serjeant being called upon, acquainted the House, that he did yesterday communicate to the keeper of the said gaol Mr. Speaker's warrants, for removing the said Mr. Murray; and that being thereupon admitted to the said Mr. Murray, he the said deputy serjeant did acquaint him with the orders of the House, for his removal; but that his physician, Dr. Lamond, being present, and giving it as his opinion, that it might be very improper to remove the said Mr. Murray that night, and that it would be more advisable to defer such removal till the next morning, he the said deputy serjeant acquiesced therein, and accordingly did this morning, together with Dr. Lamond, again attend the said Mr. Murray; and told him, that he, the said deputy serjeant, was ready to execute the said warrants; but that the said Mr. Murray then said, That he thought such removal would be of little or no service to him; and that as the application to the House was without his knowledge, he chose, if it could be permitted, to remain where he was; that he also requested the said deputy serjeant to inform the House, that he was extremely thankful for the favour intended him; and that the said Dr. Lamond likewise thought, that as his fever had left him sooner than he apprehended, it was the best way not to remove him, as nothing but air and exercise could be of real service to him.

And the said deputy serjeant being further examined, also acquainted the House, That he found, from his conversation with the said Mr. Murray, that he had been informed of the steps which had been taken for the said application to the House; and that he, the said Mr. Murray, expressed great uneasiness thereupon, and used some words of resentment towards one of his relations, on account of such application being made; saying, That it was a mean thing in him, to apply to the House, without his, the said Mr. Murray's, consent.

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Dr. Lamond being called in was examined at the bar, and gave the House an account in what condition he found the said Mr. Murray last night, with his reasons for thinking it improper to have Mr. Murray removed at that time; and also acquainted the House, That the said Mr. Murray does not desire to be removed out of Newgate, unless he could have the benefit of air and exercise, and was dissatisfied with the application which had been made to this House; and that he, the said Dr. does not now perceive any symptoms of the said Mr. Murray's having the gaol distemper; but thinks him much better than he was yesterday, although far from being well.

Ordered, 1. That the orders made yesterday, for removing the said Mr. Murray from his majesty's gaol of Newgate, into the custody of the serjeant at arms, attending this House, and the several orders subsequent thereupon, relating to the said Mr. Murray, be revoked. 2. That the said Mr. Murray do remain in the same custody he was in, with the same orders, in relation to him, as were subsisting yesterday, before the said revoked orders were made.

*Debate in the Commons on the Pay of the General and Staff-Officers.**] Feb. 11. Mr. Fane brought up the Report of the Committee of Supply. On the Motion that the House do agree with the said Committee, "That 16,000*l.* be granted for the Pay of the General and Staff Officers for his majesty's Land Forces for the year 1751,"

Lord *Egmont* rose and said:

Sir; as the estimate now under consideration was at my desire brought in separately, and as it was too late, when this resolution was agreed to in the committee, to trouble you with what I had to say upon the subject, I now think myself obliged to give my reasons for having it brought in distinct from any other article, and for thinking that this resolution ought not to be agreed to. This branch of public expence, which is called the Staff, consists, as gentlemen will see by the estimate, of two parts, which are in their nature very different, the one being a civil, the other a military establishment. The civil establishment consists of a provision for certain officers, who, though they have a concern with our army, yet are by their employment mere civil officers; and this continues in time of peace as well as war, and amounts to a little above 10,000*l.* a year. The other is a provision for a captain general, several inferior generals, aid-de-camps and the like, which can be of no use in time of peace, and therefore in such a time this nation has not usually been burdened with this expence. Now, as the provision for the staff is generally brought in, as an article in gross, in our estimate for the army; and as I last year observed, that this article exceeded what has formerly been granted in time of peace for this purpose, I thought it was incumbent upon this House to enquire into the cause of this exceeding, which was the reason for my moving to have this article of the Staff particularly stated, and brought in as an estimate by itself alone.

As to the civil part of the Staff I have nothing to say against it, Sir, I shall at present make no objection to it; but as to the military, I think it not only unnecessary but dangerous. To have in time of peace a captain general, with all the parade attending that high office, looks more like a military than a civil government; and may now, as it has done heretofore, put an end to our constitution, by drawing in all the other parts of our government within the whirlpool of its own power. I have not seen this captain general's commission, nor would I move for it, because of the ill luck I had last session in my motion for the commission of the master general of the ordnance? But whatever his commission may be, his power will be much the same with that which the lord high constable of England had of old, only it will be much more dangerous: the high constable had by his office the power over the military; but what was then our military, Sir? It consisted of our great barons, or lords of great manors, and their tenants: these were then our officers, these were then our soldiers: of these our armies consisted; and as the officers were not removable at pleasure, and the men under their command had a natural dependence upon them, they could dispute the commands of the constable, they could disobey, if they thought his commands contrary to law, or inconsistent with the safety of the sovereign. And what made this office still less dangerous, was, that it was often hereditary; and consequently might often happen to be in a man who had no military knowledge or character,

* From the London Magazine.

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nor any influence in our armies. Yet, notwithstanding all these disadvantages, such was the power of this high office, that it often became oppressive upon the people, so oppressive, that at last an act of parliament became necessary, in the reign, I think, of Richard 2, for circumscribing its power; which act, in the preamble, recites, that the Commons had made grievous complaint of the encroachments made upon the common law, by the court of the constable and marshal. And though the jurisdiction of this court was by this act confined to military affairs only, yet the power of this high officer continued to be so extensive, that it was thought to be of dangerous consequence to the crown itself; for which reason it was, at last, in the reign of Henry 8 entirely laid aside, and never since granted but for a particular purpose, and for that purpose alone.

Now, Sir, with regard to our captain general, he has the same power, I suppose, over the military, that the high constable had of old; but his power will be much more absolute and arbitrary both over our courts martial, and over every man subject to those courts. As to courts martial, the constable's power was limited by the lord marshal of England, who was likewise a great officer entirely independent of the constable, and who sat with the constable as a judge in that court, and was the proper supreme officer for executing all the sentences of the court; but our captain general has not only the nomination of all the judges in our modern courts martial, but the execution of all their sentences, without controul. Then as to the men subject to our modern courts-martial, who are they? They are either officers whose commissions depend entirely upon the pleasure of the captain general, and who have no natural influence upon the men under their command; or they are soldiers who dare never dispute, much less disobey the orders of the captain general, let them be never so illegal, let them be of never such dangerous consequence to their sovereign. If he should order a party to go and bring the sovereign from St. James's to the head quarters, no man commanded upon that party durst disobey: if any did, they might be tried and condemned by a court martial, and shot by the captain general's orders, in a few hours. In short, by a dexterous management, and a sudden modelling of the army, the captain general might bring his sovereign into the same condition that Henry 3 was in the army of the earl of Leicester, or Henry 6 in the hands of the Yorkists; and the same pretence can never be wanting, which was that of taking or keeping the king out of the hands of evil counsellors.

Let us consider, Sir, what an extensive power the captain general has by the nature of his office: he must have the sole disposal of, or at least, the chief recommendation as to all commissions in the army: he may treat with enemies, pardon rebels, appoint courts martial, and sign the dead warrant for the execution of the highest officer under his command; and then, by the nature of our modern discipline, every man in the army must shew the highest respect to his person, and the most implicit obedience to his commands. No man dare so much as mutter against him, or against any order he issues; for the article of war says, that "Whoever shall behave himself with contempt or disrespect towards the general, or speak words tending to his hurt or dishonour, shall be punished by the judgment of a court martial," that is, shall be shot, if the court, under the influence of the general, shall so order it. Thus every man in the army must be under a legal dependence upon the captain general, and what will render this dependence more absolute, and I may say, voluntary, is, that the captain general must be one who has been bred up in war, and, as is now the case, of a very high military character. This of course procures him the affection and esteem both of the officers and soldiers of our army, consequently, that implicit obedience which is directed by the law, will be enforced by their inclination; and the latter may continue to operate, nay, may operate more strongly, after the former has ceased. Whilst the king remained in the leading-strings of his captain general: whilst the latter continued to be a sort of mayor du palais, he might not perhaps think of any attempt upon the crown. But after he has once filled all or most of the commissions in the army with his creatures, and has by his conduct engaged the hearts and affections of the soldiers to center in him alone, could the king with any safety venture to dismiss him from his command, or emancipate himself from the slavery of his captain general? Surely, no gentleman can fancy so, who thinks, that the whole military power of this nation consists in our standing army alone. And if the captain general should find the army



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resolved to stand by him, notwithstanding the king's having dismissed him from his command, his next step would certainly be, to seize upon the crown: to this he would be provoked by his ambition, and determined by his danger. The example of Hugh Capet, founder of the present royal family of France, would fire him with hopes of success: the fate of the duke of York, father of our Edward 4, would convince him, that no subject could depend upon a treaty with his sovereign, whilst left in possession even of the name of king.

This, Sir, is a true representation of the danger to which the crown is exposed, by continuing the post of captain general in time of peace; and of this danger they are so sensible even in the despotic kingdom of France, that they never have such a post continued in time of peace; but in a free country, in a country where the people have liberties and privileges to lose, there is another danger, and this other danger is double the former: for the liberties of the people are equally endangered by a close union between the king and his captain general, and by an open breach between them. In case of an open breach, and the general's getting the better of his sovereign, the certain consequence would be, the establishment of a military government and absolute despotic power, as we may most indubitably conclude, from what happened in the reign of Charles 1, for at that time, an army raised for preserving, annihilated, the liberties of the people, and vested their general with absolute and arbitrary power; what could we then expect from an army long accustomed to consider chiefly their pay and preferment, and perhaps industriously taught to hold in contempt the civil government of their country?

Then, Sir, supposing that a close union subsists between the king and his captain general: in this case we must suppose, that the sovereign is pretty much influenced by his general, especially so far as may be agreeable to his own inclinations; and I may now decently as well as safely remark, that most kings incline to extend their power as much as they can, because all the world knows, that our present most gracious sovereign had never any such inclination. But we may hereafter have such a king, and let us consider, what might be the consequence of such a king's being not only influenced but assisted by a man of great character in the army, bred up in camps, and accustomed to have an implicit obedience yielded to all his commands. Must we not suppose, that such a man would but ill brook being controuled by the civil power? Can we suppose, that he would willingly submit to the parliament's making a reduction in the army under his command? Consequently, the parliament must either yield in every thing to his will and pleasure, or he would advise his sovereign to govern without a parliament; and would have great influence in prevailing with the army to be subservient to this design: and let me tell you, Sir, that the army's refusing to be subservient to any such design, is, in my opinion, the only security we now have for the preservation of our liberties; for if they should resolve, by the king's sole authority, to execute martial law, notwithstanding the expiration of the Mutiny Bill, they would soon extend that law to every man in the kingdom; and the continuing themselves in pay, as well as to prevent the confusion which would ensue from such a number of troops disbanding all at once, would, without the influence of a favourite captain general, be great incitements for their coming immediately to such a resolution.

This is an event, Sir, which we have great reason to fear, and there is a much greater probability of its being brought about by a captain general, than by any prince upon our throne. The king has by our constitution as much power as any good or wise man can desire; and whilst our constitution is preserved, he can never be in any personal danger. It is not therefore his interest to attempt overturning our constitution; because he thereby can get nothing desirable, and may lose all. But after a captain general has engrossed the dependence of the army upon himself alone, it is his interest to overturn our constitution; because from being the servant, he would thereby become the master both of his country and his sovereign: nay, his own safety might perhaps induce him to make the attempt; for should he have been guilty of any misdemeanours in his command, the danger of an enquiry, and the fear of punishment, would be strong arguments for the attempt, and I believe irresistible, if attended with a probable view of success.

Thus, Sir, I think it is apparent, that the continuance of the post of captain general in time of peace, may be of the most dangerous consequence to the people, as well as to the sovereign; and this danger

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is rather increased than diminished by the high quality of that great officer. By his ambition the nation might be involved in unnecessary wars; and though from his conduct it should appear, that he was absolutely unfit for the command of an army in time of war, yet it would be impossible, or at least dangerous for the parliament to attempt getting him removed. Besides, he would always be for having our wars carried on by national troops, and for that end increasing their number, because it would add to his influence in the country, both which I think inconsistent with the true interest of this nation; and we ought to guard the more carefully against it, as, I believe, we can never now engage in any war, without being involved in a war upon the continent of Europe, which, in my opinion, ought always to be carried on chiefly by foreign troops, because, in proportion to their numbers, we can maintain them cheaper than we can do our own, provided we take care not to be made the dupes of German princes; and because this method of carrying on a land war, can never be so hurtful to our navigation and manufactures, nor so dangerous to our liberties, or the industry and morals of our people. It may, perhaps, be necessary to send now and then a few of our own troops abroad, that our officers may see something of the practice of war; but I shall never be for exporting great numbers of them, in order by that means to import foreign military discipline; because, I believe, it inspires our soldiers with a slavish submission to their commanders, rather than with any true courage against the enemies of their country.

But, Sir, whatever I may have said about the danger of continuing the post of captain general in time of peace, I hope it will not be understood that I mean to apply it to the present time. The character of the royal prince, now at the head of our army, secures us against all the dangers I have mentioned, and every danger that can be apprehended. The precedent is that alone which I find fault with, and it is, in my opinion, a most dangerous precedent: in future times we may have a king endued with less wisdom, and more governed by his passions, than his present majesty. Under such a king, suppose a beloved younger son placed at the head of our armies, and continued in that command for a number of years, in peace as well as war; such a captain general would of course have the disposal of all civil offices, and of all commissions in our navy, as well as those in our army. In short, except as to the name, he would be in every respect our sovereign, during the life of his father. Then let us suppose, Sir, that the eldest son and heir apparent to the crown, should by the whispers and wretched politics of ministers be at the same time entirely excluded the cabinet, and kept an utter stranger to all the councils of his sovereign; that the suspicion of having a friendship or regard for him, should be an insuperable objection to a man's being admitted into any share of the government of his country; and that every man should be hunted out of our army and navy, who did not shew a slavish submission to the will and pleasure of his younger brother, our captain general, In what a condition would such an heir apparent be upon his accession to the crown, with not an officer in our army or navy that he could depend on; nay, most of them jealous of having offended him, and consequently his secret if not his declared enemies? Must not he through necessity allow himself to be as much governed by his younger brother, as his father had done through choice? If he attempted to take the reins of government into his own hands, a civil war might probably ensue, which would of course end in giving us a new pretender to our crown; and we have had so much trouble with the one we have already, that, I think, we ought to be extremely cautious of any precedent that may tend towards creating another. Of this every man will certainly be cautious, who does not on purpose endeavour to set up a new pretender, in order to make way for the old.

From hence, Sir, it is apparent, that though we have at present nothing to fear, because of the character of the royal prince that now possesses the high post of captain general, yet from the precedent we have a great deal to fear; and it is in another respect a precedent of a most dangerous nature, as we are now blessed with such a numerous royal offspring. A prince of the blood is by his birth of high rank, and of great power in the kingdom, so great, that the princes of the blood were in former ages sometimes troublesome to the crown itself, and often oppressive upon the subject. If to their high rank, and great power, should be added all the most eminent offices in the kingdom, they would eclipse, they would, with the assistance of the crown, com-

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mand both Houses of Parliament, which in a little time would bring our government to be the very same with that now established in France, an absolute sovereignty, supported by the princes of the blood, and countenanced by a parliament, to register the edicts of the king's council, but not to refuse any that should be sent them from thence; and I wish the people may not soon begin to think, that our parliaments are already of very little more consequence; for there is very little difference between not having the power to refuse, and that of never refusing.

Having now, I hope, Sir, set in a clear light the danger of continuing the post of captain general in time of peace, I come next to consider the œconomy of it; and upon this subject I must observe, that our ministers set out in this session with more than usual pretences to œconomy; upon this pretence we sent 2,000 of our brave seamen a begging; but it was at that time foretold, and I now find truly foretold, that our œconomy would begin and end with our seamen; for the doctrine then inculcated by our ministers was, that we must save upon every article of public expence, yet I find, that not so much as a shilling is proposed to be saved upon any one article, except that of the seamen; even this article of the captain-generalship, which, surely, cannot be said to be necessary in time of peace, is charged as high as our ministers can possibly charge it; for the saving as to the pay of the captain general, we do not owe to them, but to his royal highness, who scorns to put his country to such an expence, at a time when he can do it so little service; and after he has set such an example of generosity, I am surprized, it is not followed by all the other gentlemen belonging to the military part of the staff. Even this would not be without a precedent; for I have been told, that in 1717, upon a most able speech then made against the staff by a gentleman who is now dead, all the generals belonging to it gave up their pay: and I am very certain, that the public purse stands more in need of compassion now than it did at that time; but as I cannot pretend to be so able a speaker as that gentleman was, I cannot expect to have the same success: nevertheless, I should think, that what I want in ability should be made up by the superior weight of the example now set them by his royal highness; for there was then no man in England, whose example either could have, or deserved to have, such a commanding influence. If his example should have its proper weight, the public would save at least 6,000*l.* a year upon the military part of the staff: and by reducing the civil part to its old establishment, 3,000*l.* a year more might be saved, which would be a saving of 9,000*l.* a year, a saving which would be far from being inconsiderable, in the present distressed circumstances of this nation; and in this case we should at least have this comfort, that if for the sake of a compliment we run ourselves into a danger, it was a danger that cost us nothing at present, whatever it might do in after times. But, Sir, as I am against the danger as well as the expence, I must conclude with moving, That this Resolution may be re-committed.

Mr. *Pelham:*

Sir; as the noble lord seldom disappoints the House, when there is an expectation of hearing him upon any subject, I did not upon this occasion doubt of hearing from him every argument against the resolution now before us, that could be suggested by the most fruitful invention. Considering the great prince who is now so deservedly at the head of our armies, and who has been much too often the subject of our debates, I was in some pain lest the warmth of his lordship's temper should have hurried him into some indecent expression; and I was glad to find, that he spoke not only with great decency, but with more than usual caution, which shews, that he is, when necessary, as much master of his temper, as of every argument he undertakes. But before I begin to answer his objections against this resolution, I shall state, as briefly as I can, the chief arguments in its favour.

It is very well known, Sir, and must be confessed by the noble lord himself, that ever since we had an army, the captain general who commanded in chief our armies in time of war, has always had his commission continued to him in time of peace. The duke of Ormond, for having commanded but one sorry campaign, had not only his commission, but the pay too, continued to him during the queen's life; and after the accession of his late majesty, the duke of Marlborough was most justly restored to his commission as captain general of our armies, which was continued to him as long as he lived, though he generously and voluntarily gave up the pay, in order to save money to the public.

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These are the only two instances we have had of generals who commanded in chief our armies in time of war; and therefore I may say, that ever since we kept up armies in time of peace, it has been the custom to continue in commission the captain general who commanded our armies in time of war. Would it not then be a most glaring affront to break through this custom in the person of his royal highness, who has done such signal service to his country? Would not this be a most ungrateful return for his having so often and so cheerfully ventured his life in the cause of his country? It is true, the foreign campaigns were a little unlucky; but that was not in the least owing to any failure in him: his conduct and courage were acknowledged over all Europe; and both were upon a signal occasion manifested here at home. There was a time, Sir, when every one thought, and rightly thought, that none but he could save us. When the enemy was in possession of great part of the island, and despair sat brooding in every countenance, he flew to our assistance; and by his presence and example restored to our troops their former courage, after their having been twice defeated by the rebels. In short, I may justly say, our sitting here is owing to him; and shall we make use of that privilege for putting a manifest affront upon him to whom we owe it?

But it is not our gratitude alone, Sir, that militates in favour of this resolution: our safety is likewise very intimately connected with it. Let us consider, that he must either have nothing at all to do with the army, or he must act as captain general. He cannot act in any inferior capacity; and whilst he acts as captain general, he must have such officers under him as are proper for one acting in that character. It is therefore necessary to continue his royal highness in his commission as captain general, in order to preserve discipline in our army; for if he had nothing to do with it, no inferior general would have authority enough to enforce that discipline, which is necessary for making our troops useful against an enemy, or for preventing their being hurtful to ourselves. Both the officers and soldiers of an army must be kept close to their exercise in time of peace, otherwise they cannot make the proper use of it in time of war; and to make them keep close to their exercise in time of peace, when men are but too apt to think they may indulge themselves in ease and idleness, requires great authority as well as great power in the commander; for it is better, and, I hope, more agreeable to the nature of Englishmen, that soldiers should be induced to do their duty by a desire of esteem, rather than by the fear of punishment. And as the common soldiers of all armies are but too apt to be guilty of little irregularities, which are very hurtful and vexatious to the people of the country where they are quartered, or through which they march, for preventing this they must always be kept under the strictest discipline, which requires not only the constant attendance but the closest attention of the inferior officers; but this attendance and attention it is very difficult to enforce, unless there be some person at the head of the army, of great eminence, either from his birth, or from his character as a general. And as that great prince now at the head of our army is eminent for both, it would be madness in us to render it impossible for him to have any thing to do with the military.

I could mention several other arguments, Sir, in favour of this resolution; but these, I hope, will suffice, if I can shew that there is no foundation for any of the objections that have been made to it; and for this purpose I wish the noble lord had moved for the commission and instructions given to the captain general; for if he had, I believe, no one would have objected to his having had a copy of both, which, I am persuaded, would have prevented his having given himself any trouble upon this occasion. As to the dangers which he was pleased to frighten us with, I believe, most gentlemen perceived, that they were altogether imaginary. He may as well compare the post of captain general to that of prime vizier, as to compare it to what the high constable was of old. There is not the least similitude between our present constitution, and that which we had in former ages, nor is it possible for us to return to our old form of government: I may as well think of returning to what I was when but three years old, as to think that our government may return to what it was 2 or 300 years ago. The king had then an absolute power over the military, and the exercise of that power was entrusted to the high constable. The marshal, it is true, sat with him as a judge in that court of judicature called the court of chivalry; but the marshal had no controul over the orders issued by the high constable relating to the military; in this

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respect he was sole and absolute; and almost every man in the kingdom was then reckoned to belong to the military, and consequently subject to his orders; which makes a very material difference between the power the high constable then had, and the power which a captain general now has, or indeed can have, unless he were to be established by act of parliament.

The post of captain general, as now constituted, Sir, is, in time of peace, and within the kingdom, rather a post of dignity than of power; for all commissions in the army, and all general orders to the army, or to any considerable part of it, must be signed by his majesty, and countersigned by the secretary at war, who is an officer quite independent of the general, and answerable to parliament for every thing he countersigns. Then as to courts-martial, every one knows, that serving upon courts-martial, either regimental or general, is a part of duty which goes by rotation, and that every officer in the place is obliged to serve it in his turn, and may refuse serving, if there be other officers there who ought to serve before him. Besides, their sentence, especially if it relates to life or limb, must be laid before his majesty, and confirmed by him, before it can be carried into execution. I cannot therefore comprehend how it can be said, that the life of any officer is at the will of the captain general: Can we suppose, that a court-martial would at his desire condemn a brother officer, whom they knew to be innocent, or that the king, duly informed, would confirm the sentence? Such suppositions are ridiculous, because they are such as no human regulations can guard against. If a judge and jury should conspire to condemn an innocent man, and the king should, by the advice of his council, sign the dead-warrant, the man must suffer; but to what purpose can we make such a supposition? for it would be impossible to guard against it. If the conspiracy and imposition could be proved, the parliament might afterwards punish the guilty; and so they could the highest captain general, and every member of the court-martial, if it could be proved, that they had conspired to condemn and cause to be put to death an innocent man. The captain general can therefore have no absolute power over the life of any soldier, much less any officer under his command; and as he cannot prefer them, so neither can he break any officer in the army without his majesty's approbation. He may, indeed, order any officer into arrest, or he may suspend him until his majesty's pleasure be known, or until he be tried by a court-martial; and as to rewards, he may prefer any officer he pleases, when a vacancy happens in the army; but this preferment must be confirmed by the sovereign, who may disannul it, and grant the commission to another, if he please. This is all the power, either of rewards or punishments, which a captain general has in time of peace, and here at home; and this power can never, I think, be dangerous either to king or people.

But it may be said, Sir, that the captain general must always have great influence in recommending officers to the king for preferment; and so he might, were he neither captain general, nor had any thing to do with the army; for it is not the first time we have heard of the influence of a mistress upon such occasions. A king, who has a thorough confidence in the knowledge and integrity of his captain general, will, without doubt, be very much influenced by his recommendation; but if he has any wisdom, he will take care, that that influence shall not be so manifestly strong as to alienate the dependence of the army from himself; and for this end he will now and then reject the recommendation, if it were for no other reason but because it is the recommendation of his captain general; therefore a man's being in this post, is often more likely to weaken, than to strengthen his influence over his sovereign. Again, it may be said, that though the captain general has not the absolute direction, yet he must always have a great weight in every court-martial where he pleases to make use of his interest, which may render their sentence more or less severe, especially in cases where the punishment is arbitrary, and that this may give him a greater power over the whole army, than any one subject ought to have. But the honour of the gentlemen of our army is so well known, Sir, that nothing could more diminish the captain general's character in their eyes, than his interesting himself in the condemnation or acquittal, or in the more or less severe punishment of any criminal. Such a conduct would be so far from rendering his power over the army of any dangerous consequence to the sovereign or to the people, that they would be glad to furnish matter for an impeachment against him, and would rejoice to hear of his being dismissed from his command.

Neither the sovereign nor the people,



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Sir, can ever have any thing to fear from the power a captain general has over the army under his command; but both may expose themselves to danger by dealing unjustly and ungratefully with a brave and beloved general, because such a treatment renders it necessary for him to provide for his safety, and attaches to his interest not only the army, but a great part of the people. It was this sort of treatment that provoked and enabled Julius Cæsar to overturn the liberties of his country; for if the great men at Rome had not treated him ungratefully, he would never have thought of the attempt, nor would his army have stood by him in making it; and this occasioned that famous exclamation of his, upon viewing the field of battle at Pharsalia, "Hæc voluerunt, tantis rebus gestis C. Cæsar condemnatus essem, nisi ab exercitu auxilium petiissem." But we need not search into antiquity, or foreign history, for examples: Many of us may remember what a flame was raised against queen Anne for her ingratitude to the duke of Marlborough, such a flame as might have proved fatal to that queen, notwithstanding her being personally so much beloved by the people, if the general had not shewed more loyalty and more steadiness than many would have done upon a like occasion. Let the king therefore and the people shew but a just return of gratitude to a general who has done them eminent services, and they need not fear, that the army will support him in any unprovoked attack either upon the dignity of his sovereign, or upon the liberties of his country.

I cannot therefore join with the noble lord in thinking, that any danger can result from the precedent of continuing the royal prince at the head of our army in time of peace, who in that station did us so much service in time of war: and if gentlemen will consider it, they will see, that it is impossible to do otherwise, without affronting him in the grossest manner; for how is he to be dismissed from the command he had during the war? It must be by appointing another in his stead, or by a message, that his majesty has no further occasion for his service; and I believe, no gentleman will propose that either of these methods should be taken. Then as to the case, which the noble lord was pleased to suppose, of the king's younger son having in some future time the chief command of the army, whilst the eldest was at the same time excluded from all the counsels of his sovereign, it is like many other suppositions, a case that can never happen in the manner he has supposed it; for whatever dislike or indifference a king may conceive towards his eldest son, it can never be the interest of any minister, and consequently will not, I believe, be his inclination to disoblige the heir apparent; and much less can it be either the interest or the inclination of any officer, of whatever rank in the army. They would therefore take care to shew him as much respect as was consistent with their duty to their sovereign; and upon his accession to the throne, he might expect from them as much fidelity, perhaps more than from those who, during the life of his father, had flattered him at the expence of their duty to their then sovereign. And let me upon this occasion observe, that no man, who has a true and sincere regard for our present happy establishment, will ever endeavour to sow discord or disagreement between any two branches of the royal family. On the contrary, if any accidental misunderstanding should happen, it is the duty of those who have access to either, to try all methods for bringing about a reconcilement, and not to render it wider by setting one up in opposition to the other.

Lastly, Sir, with regard to the economy of what is now proposed, I think, the noble lord admitted, that what he calls the civil part of the staff, amounts to more than 10,000*l.* a year; therefore the whole sum we could save by dismissing that great prince, to whom we owe so much, from having any thing to do with our army, would not amount to 6,000*l.* a year; a poor sum, when put in balance with the gratitude of the nation, even supposing that the whole could be saved. But this, Sir, would be far from being the case; for whilst we keep up any regular troops in time of peace, we must every now and then employ some of our general officers to visit them in their quarters, and to review the several regiments, not only to see that the soldiers are duly kept to, and instructed in their military exercises, but also to see that the regiments are complete, that strict discipline is observed, and that the people of the country where they are quartered, have no just ground of complaint against their behaviour. When you keep general officers in pay, it is their duty to go upon this service as often as his majesty thinks necessary, without any extraordinary allowance; but

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if you keep no such officers in pay, every one that is sent, and for every time he is sent, must have a certain allowance for his trouble and expence, which from experience has been found to be very near equal to any sum that could be saved by abolishing this military part of the staff; therefore no argument can be drawn from economy, for postponing or disagreeing to this resolution; nor would it be any compliment to the public, or any testimony of generosity in the generals, to give up their pay; for as they would of course be the persons employed to visit the quarters, and review the respective regiments, I do not believe, that their giving up their pay as general officers, would be 20*s.* a year advantage to the public or loss to them.

I hope, Sir, I have now set this affair in such a light as will prevent any thing more being said upon the subject; for the question is of such a delicate nature, that it really gives me inexpressible pain to hear it debated; for which reason, if the noble lord insists upon his motion, I think the question should be put as soon as possible.

Dr. *Lee:*

Sir; the chief question now under our consideration can never come to be of a delicate nature, but by rendering the debate personal, which I was sorry to find, the hon. gentleman who spoke last, really seemed to aim at; but this, I hope, every gentleman who opens his mouth upon this occasion, will endeavour as much as possible to avoid; for we are not now debating about persons but things. The question is not about who shall be captain general: it is, whether we ought ever to have a captain general in time of peace; and therefore our present captain general has not the least concern in the debate. Does not every one who knows any thing of the army, know, that a man having a commission, and his being employed, are two different things? The commission entitles the bearer to such a rank in the army, which continues with him during life, whether he be employed or no. And when his majesty finds he has no occasion for the service of an officer of such a rank, there is no necessity for any message; his not being employed in that station is sufficient, and from that moment his pay as an officer of such a rank ceases. How many brigadier, major, and lieutenant generals have we, that are not now employed as such? Most of them have regiments, and are employed as colonels; therefore they have now pay as colonels, but no pay as generals, because they are not employed as such. Did his majesty ever send a message to any of them, signifying that he had no further occasion for their service? No, Sir, their not being employed as generals is sufficient; nor does any one of them think himself ungratefully used in not being employed as such: and yet some of them have great merit to plead even in the affair of Culloden, and in all the engagements in Flanders, where their not being victorious, was not, I am sure, owing to any want of courage in the British troops, or to any want of conduct in their generals. The case of our captain general, were he now not employed as captain general, would therefore be the same with that of our other general officers, not now employed as such; his rank would continue the same, he would continue to have the command of a regiment, and he would probably again be employed, if his sovereign should ever have occasion for his service in the same station; but surely no one can think, it would be an affront not to employ him when there is no occasion for his service, no more than it is an affront upon our other general officers, who are not now employed in any military station above that of a colonel.

Thus, I think, Sir, the chief argument in favour of this resolution falls to the ground; and as to the necessity of our having a captain general, for the sake of preserving discipline in the army, we have had near twenty years experience to the contrary; so that every argument in its favour must vanish, and the hon. gentleman himself has furnished us with several strong arguments for shewing that it is dangerous. Nay, from the account he has given us of the captain general's power, it appears to me, that those who have now the honour to advise his majesty, are themselves of opinion, that the post of captain general is a post of the most dangerous consequence. If all commissions in the army, and all orders to the troops, are signed by his majesty, and countersigned by the secretary at war, why should his majesty or the secretary at war be put to this trouble, if it were not, because the trusting of this to a captain general might be of dangerous consequence? And, indeed, if it be really so, every one must see, that the post of captain general is altogether useless. But I wish the hon. gentleman had told us, to whom these orders are directed; how his

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majesty is informed of their being obeyed; how long commissions in the army may be kept vacant, and the post supplied by one appointed by the captain general; who appoints courts-martial, his majesty, or the captain general; whether they may not be appointed by another method than that of rotation; who orders a revision, or the execution of a sentence of a court-martial; and several other questions, which, I think, ought to be authentically resolved to us, before we approve of having such a dangerous office as that of captain general in time of peace. We are certainly, therefore, not properly informed for determining the question now before us; and as the hon. gentleman has told us, that we may have the captain general's commission, together with his instructions laid before us, we ought, if it were for no other reason, to recommit this resolution, and then address for having the commission and instructions laid before us, which can occasion but a few days delay, and it cannot so much as be pretended, that there is any danger in the delay.

I make not the least doubt, Sir, but that the hon. gentleman has given us a true information, according to the best of his knowledge or belief, with respect to the power of a captain general, as it is now established; but this is not a proper foundation for a resolution of parliament. Until we see the commission and instructions, we must suppose, that his power is the same in time of peace as it was in time of war: if so, I am sure, it is a power of the most dangerous consequence, should it be lodged for any time in the hands of any subject, and is the more dangerous, the higher the person is, by birth or character, in whose hands it is lodged. The two examples mentioned by the hon. gentleman are two as strong proofs of this as any that can be brought. I shall not now dispute the case either of Julius Cæsar, or of the duke of Marlborough; but the conduct of both clearly shews, how unwise it is for a government to trust any subject with such power as may enable him to say, you have treated me unjustly or ungratefully, and therefore I will demolish you; for this every man will say, if you attempt to lessen or put an end to his power. Though the general of the Venetian troops has many restrictions and limitations laid upon him, particularly that of never bringing any of the troops into their capital, yet that wise state never trusts the post of captain general in the hands of a native; for a very plain reason, because the command of the military, when lodged in the hands of a native, will always give him a great influence upon the civil government of his country. How many kings have lost their crowns, how many republics have lost their liberties, by this means, I need not mention, because the history of every age almost furnisheth us with examples.

To me, Sir, it is a most melancholy prospect, that we must always have an army for carrying our laws into execution; but should I find, that this army must for ever be attended with all the parade of a captain general, the prospect would become quite dismal. I should from thence with grief conclude, that we must always be under the terrible domination of a military government; the certain consequence of which is, that those who are of the army must be the slaves of military law, and those that are not of the army, must be the slaves of those who are themselves the slaves of military law. Whatever wicked ministers may attempt for their immediate safety, I am very sure no wise king will ever think of substituting such a government in the room of the regular civil government we have at present: in which, whilst the king makes the laws of his country the rule of his government, he can never be in danger: he may reign with security, he may reign with glory: but in a military government he must depend for the safety of his crown, he must depend for the safety of his life, upon the caprice of pretorian bands, or chambers of janissaries; and history both ancient and modern will inform him, how precarious is this dependence.

As to the case, Sir, which my noble friend was pleased to suppose, I am far from being of the same opinion with the hon. gentleman who spoke last: I am far from thinking it can never happen; for both ministers and officers are but too apt to pursue their present interest at the risk of their future: they know, that one of the best qualities a prince can have, is to be of a forgiving temper; and this they are often tempted to trust a little too much to, when they find it their immediate interest to do so. But if I may presume to put a minister in mind of his duty, I must observe, that when the king conceives an ill grounded prejudice against any one of his subjects, much more against any one of his own family, it is the duty of his ministers

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to endeavour to remove it: it is highly criminal in them to endeavour to confirm it: and in the words of that hon. gentleman, as near as I can remember them, I shall further observe, that no man, who has a true regard for our present happy establishment, will endeavour to create or continue a difference between any two branches of the royal family: but when any such misfortune happens, will use all the means in his power to bring about a reconciliation, and for that end will apply himself where the advice of friends seems most to be wanted.

With regard to economy, Sir, I do not think it of any great weight in the present debate; for if it could be shewn, that the post of captain general was any way useful in time of peace: nay, if it could be made appear, that the precedent was not of the most dangerous consequence, I should, out of mere compliment to the royal prince, who now enjoys it, be for continuing it during his life, notwithstanding the expence atending it; but if we had no such post, I must think, there would be a considerable saving; for I cannot see how it is possible for our ministers to waste 6,000*l.* a year in reviews. If they were to send a lieutenant general once a year, and a major general or brigadier twice or thrice a year upon a progress round England, and to allow them their full pay during the time of their progress, which surely would be sufficient, it could not amount to near 6,000*l.* a year: but this we have no occasion to dispute, until the question now before us be determined; therefore I shall conclude with giving it as my opinion, that if we have any regard to decency, or to the dignity of our proceedings, we cannot agree to this resolution, without first seeing the commission and the instructions given to our present captain general: for which reason I must be for agreeing to my noble friend's motion.

Lord *George Sackville*:

Sir; the speech made by the noble lord, as well as the motion he concluded with, gave me inexpressible concern; for though I believe, I have no great reason to fear, that his motion will be complied with, yet, as it must appear upon our votes, it may communicate apprehensions to the people, for which, I am sure, there is not the least foundation; and though his lordship, in every thing he said, expressed himself with the utmost delicacy, yet it is a subject which it is impossible to touch, without laying a foundation for adding to our present unhappy divisions a new one, which might be of more fatal consequence than all the rest. This, I say, Sir, gave me inexpressible concern; and this concern is greatly heightened, when I reflect on that false, malicious, wicked, and seditious libel, called "Constitutional Queries," which were so artfully and so industriously dispersed at the beginning of this session, and which so deservedly met with the censure of both Houses of Parliament.* Every gentleman within these walls was convinced that there was not any ground for what was so wickedly insinuated by those Queries; but what will not the people without doors imagine, when they find that insinuation, I may say, enforced by the motion now under our consideration? Had that seditious libel rested upon its own single authority, it would have been considered only as an impotent attempt in some factious person, or rather some Jacobite in disguise, to spread false rumours among the vulgar, and to stir up a division in the illustrious family now upon our throne; but when the people find it followed by such a motion as this, which is, in effect, a motion to remove from the command of our army, a royal prince, who has in that station done his country such eminent service, I am afraid, they will give some credit to the groundless suggestions in that libel; and therefore I wish, that such a motion had at least for this year been suspended: I hope, the noble lord will for this reason wave the motion he has made, in order thereby to prevent its being communicated to the public by the printed votes of this House.

Surely, Sir, there can be no danger from our continuing this establishment for one year longer: in my opinion, indeed, there never can be any danger either to king or people; for with respect to our sovereign, as the captain general must be entirely dependent upon the crown, and will always be removable at the pleasure of the crown, can it be supposed, that the king would allow him to continue in command, a moment after his being suspected of endeavouring to form a party for himself in the army? In this respect, there is a very great difference between a monarchical and a republican form of government. In either, it is impossible for a captain general to begin to form for himself a party in the army, without incurring some suspicion;

* See p. 868 of the present Volume.

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but the difference is, that in the former, he may be immediately removed as soon as he begins to be suspected, whereas in the latter he cannot be removed but by a concurrence of a majority of the senate; and before that concurrence can be obtained, the suspicion may not only have long existed, but he may have formed such a party in the army as will be both able and willing to support him against the civil government of his country. This was the case, Sir, of Julius Cæsar in Rome, and of Oliver Cromwell in England: both of them were long suspected by many, who were quick-sighted enough to see through their designs, but the majority were blinded by their successes, and were thereby prevailed on to continue them in command, until it was out of their power to remove them. Therefore, no argument drawn from the history of either of those generals, or from the history of any commonwealth general, can be applicable to the case now before us; and with regard to generals in monarchical governments, I believe, we shall find, that the general has much oftener suffered by the causeless jealousy of the monarch, than the monarch by the treacherous ambition of his general. Nay, I will be bold to say, that no monarch was ever dethroned by his general, without first having been guilty of some egregious weakness, or having shewn some very unjust and ill-grounded jealousy of his general.

I may therefore, I think, Sir, with great reason conclude, that in this country, and under our present form of government, the sovereign can never be in any danger from having his army under the command of a captain general, and consequently the liberties of the people can never be in danger from the latter's usurping the sovereign power: but say gentlemen, our liberties may be endangered not only by a difference between our king and his captain general, but by a concord and agreement between them for oppressing the liberties of the people. This way of arguing is really a sort of Proteus: if we attack him in the shape of a bull, and endeavour to guard against his horns, he turns himself into a horse, and attacks us with his heels. But to be serious, if it is possible to be serious upon such a way of arguing, suppose we had a king who had designs against the liberties of his people, could he derive any advantage from appointing a captain general, which he could not have without such an appointment? The king is, by our constitution, the chief general of our army, and is not obliged to appoint a deputy, whom we now call captain general, unless he pleases. Can we suppose, that any man who has secret designs to carry on, will do it by deputy, when he can do it by himself alone? Besides, the captain general must always be a man of high rank, or long service: he is already risen as high as he can rise in our army; and if he had not before, he must by that time have acquired a considerable fortune of his own, which he is sure of preserving and transmitting to his posterity, whilst our constitution is preserved, and he retains his innocence. Is it reasonable to suppose, that such a man would concur in any scheme for rendering both his life and his fortune precarious, which would be the certain consequence of our constitution's being overthrown? Is it not more reasonable to suppose, that such a man will rather be a check upon any arbitrary designs his sovereign may entertain, than an assistant in carrying those designs into execution? Therefore I must conclude, that no sovereign who has any such designs, will ever appoint a captain general; and, consequently, that that high office is rather a security for the preservation of our liberties than the contrary.

I hope, Sir, I have demonstrated, to the satisfaction of the House, that no danger can result, either to our sovereign or our liberties, from our having a captain general in time of peace. And now with regard to the use of that high officer, and the danger we may be exposed to from our not having such a one even in time of peace, I am fully convinced, Sir, that to make an army useful against an enemy, as well as to prevent its being troublesome to its friends, strict discipline, and a constant application to military exercises, is as necessary in time of peace, as it is in time of war: and I am likewise convinced, that it is much more difficult to enforce either the one or the other in time of peace than it is in time of war. If any gentleman differs from me in opinion upon this subject, let him consider the behaviour of the Dutch troops in the last war, and compare it with the behaviour of the troops of the same country in the war in queen Anne's time. From 1672 to 1702, they had been under the care and conduct of a captain general, meaning William prince of Orange, afterwards our glorious king William who left the Dutch army in such good order, and so well disciplined, that they performed



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wonders the very first campaign of the war, which began the summer after that prince's death; and as they behaved in the same manner during the whole course of that war, they contributed not a little to its success. But from the end of that war to the beginning of the last, an ill-grounded jealousy of the House of Orange prevented their ever having any captain-general. What was the consequence? The discipline of their troops was neglected; and many young gentlemen got themselves made officers in their army, who neither knew nor would be at the pains to learn any thing of the trade of a soldier; the natural consequence of which was, that in the last war the Dutch troops shewed neither conduct nor courage upon any one occasion.

This, Sir, is so plain a proof, so recent an example, that every gentleman who considers it, must with me be convinced, how necessary it is to have our army always under the command of a captain general, even in time of peace; for then, as I have said already, it is more difficult to preserve a proper discipline than in time of war. Men are so apt to indulge themselves in ease and idleness, that nothing but inevitable necessity, or immediate danger, can altogether prevent it; nay, even in time of war, when an army is remote from any enemy, or when they despise the enemy they have to do with, they are too apt to relax in their discipline, notwithstanding the utmost their general can do, as we may learn from the histories of all nations, especially that of the Romans; for in the histories of that great people, we often meet with complaints of this kind, and yet their generals had a most absolute power over every man in the army under their command. The precedent is therefore so far from being a bad one, that I am glad of the opportunity we now have to make a precedent, which, I hope, will always be followed, as I think it the only means by which our army can be made useful in time of war, or harmless in time of peace: therefore, if the noble lord does not withdraw his motion, I shall most heartily give it my negative, and afterwards as heartily concur in the motion for agreeing with our committee, in the Resolution now under our consideration.

Mr. *Thomas Potter:*

Sir; the ingenuity of the noble lord who spoke last, convinces me of the truth of what has often been said, that no doctrine in politics can be so absurd as not to admit of some plausible arguments in its favour; for whether we consider our constitution of government as a monarchy, or a republic, nothing can be so contrary to it, nothing so dangerous, as that of continuing the same person at the head of our army, or indeed of any one of our armies, if we had more than one, for life, or for a great number of years. That it is dangerous even for the most absolute monarch to continue the same general at the head of his army for a great number of years, not only reason, but the experience of all ages, must convince us; for without any bad design in such a general, the army will at last become more devoted to him than to their sovereign; and from that time he becomes sovereign in fact though not in name, because he must be a very self-denied gentleman indeed, if he allows himself to be dismissed, which is generally followed with something worse, when he knows that the army will support his power, whether his sovereign will or no.

This shews how weak it is to say, Sir, that the continuing of a captain general can never in this kingdom be of any dangerous consequence to the sovereign, because the king may remove him the moment he begins to form a party for himself in the army; for this party forms itself of course, without any design, at least without any overt act of his, by his being a long time continued in command; therefore, unless the king removes him upon the general principle, he may probably without any suspicion let him continue in command, until it be out of his power to remove him; and I was surprised to hear the noble lord say, that it is easier to get a favourite general removed in a monarchy than in a republic. I shall grant, that it is easier to raise an unjust and groundless suspicion in the breast of a king, than in the majority of a senate; but with regard to a just and well-grounded suspicion, surely a king is more liable to be imposed on and blinded, than the majority of a senate. A captain general of any continuance must be the chief favourite and prime minister of his sovereign: in that station he will, as usual, draw lines of circumvallation about the throne, he will invest it so close that none but his creatures and tools can approach it: in such a situation, how can a king hear of any facts that may tend to give him a suspicion of his general? But in a republic

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there will always be some members in the senate, who are enemies to the general, or at least greater friends to the liberties of their country, than to the continuance of the same general in command; these members will always be upon the watch, and will inform the senate of every fact, that may tend to give them a suspicion of their general, and if the facts be fully proved, and such as manifestly shew a solid ground for suspicion, the majority will certainly concur in removing him, unless they be such as have been previously corrupted by the general.

I shall readily grant, Sir, that no sovereign can be dethroned by his general, without having been first guilty of some egregious weakness, because I think it a most egregious weakness in any sovereign, to allow any man in time of peace to have a sole command over his army: I think, he should never allow it even in time of war, if it be possible for him to take the field in person; but to allow any one man to continue for many years in such a high station, is something more than weakness, it is downright madness; for whoever has the greatest influence over the military in any country, will always have the sovereignty in effect, and will divest the sovereign of the name, as soon as he makes an attempt to divest him of the command of the military; of which we have many examples in history, and a very recent one in our own time, with regard to the young Sophy of Persia, who was dethroned by Kouli Kan, for attempting to put a period to his military power, by clapping up a peace with the Turks; and the many revolutions that have since happened in that empire, together with its present unsettled and melancholy situation, should be a warning to us, not to expose our sovereign to any such danger, which we have the greater reason to guard against, as we have our own liberties and privileges, as well as the honour, dignity, and life of our sovereign at stake; for all would certainly be swallowed up in such a fatal contest.

In short, Sir, to give any subject a sole and long continued command over our army, is so contrary to the established maxim of all wise sovereigns, and all wise republics, and a maxim by the non-observance of which so many princes, and so many republics, have been undone, that I do not wonder to see the ingenuity of those put to the utmost stretch, who are attempting to establish a direct contrary maxim; but, I hope, the majority of this House will easily distinguish between those arguments, which proceed from a luxuriant fancy, and those which are founded upon solid reason and judgment, as well as the experience of all ages and countries; for I have heard no one argument advanced in favour of this new doctrine, but what is contradicted by experience both ancient and modern. This is evidently the case with respect to what they have said about the discipline of an army; for that military discipline of the most useful kind may be preserved even in time of peace, without a captain general, we have the experience of the ancient Romans, we have the experience of the present French, we have the experience of our own army almost ever since the treaty of Utrecht.

As to the behaviour of the Dutch troops in the last war, Sir, I have, it is true, heard it condemned by those who had an interest in condemning it; but even by them I never heard the courage of the men, but the conduct of their commanders, condemned; for if their generals gave up a town, before it was necessary, or neglected to lead the troops on to action when they ought, their ill behaviour was not owing to the want of courage or discipline in the troops, but to the want of conduct, or perhaps to something worse, in their generals; for as the governing party in Holland, at that time, were drawn into the war, in some measure, whether they would or no, I doubt much if they desired to have success. The behaviour of the Dutch troops in the last war is therefore no way concerned in the present question; and as to their behaviour in the war in queen Anne's time, will any one say, that king William, either before or after the Revolution, had ever a captain general under him in Holland? Their good behaviour in queen Anne's war, is therefore an argument rather against than for the Resolution now under our consideration; for if king William, without a captain general under him, kept the Dutch army in so good order, and taught them to fight so regularly and so desperately when there was occasion for it, surely our present most gracious sovereign, who understands military discipline as well as any prince ever did, may, without a coadjutor, do the same by the English army: nay, that he did do so, from the day of his accession to the breaking out of the Spanish war, is evident from the behaviour of our troops upon every occasion.

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I am really surprised, Sir, to hear so much as an insinuation to the contrary, from any gentleman who has heard of the behaviour of our troops at Carthagena. Though the troops sent upon that expedition were mostly new-raised regiments, yet did they not march upon that rash, that ridiculous attack of fort St. Lazare, with such intrepidity, and persisted in it with such obstinacy, that Don Blas himself, the Spanish commander, could not help exclaiming, that it was pity such brave men should be so sacrificed? His majesty himself was witness of their behaviour at Dettingen, he there saw the full-ripened fruits of his care and toil; our troops, though galled in flank by a numerous battery of cannon, and attacked in front by the flower of the French army, they sustained, they repelled, they returned the attack, and drove multitudes of the enemy into the river Maine, which to most of them may be called the river Styx, for they passed it only by passing into the next world. Again at Fontenoy, Sir: I wish I could draw a veil over the fatal day; but wherever the fault lay, I am sure, it was not owing to the British troops; for if they were at last forced to retire, it was not occasioned either by their want of courage, or want of discipline; and I may from all accounts say the same of every fatal rencounter they were afterwards engaged in, during the late war.

It is therefore evident from experience, Sir, that to preserve discipline in our army, so as to make them useful against an enemy, we have no occasion for a captain general: and I wish they may behave as well in their quarters at home during the ensuing peace, as they did during the last: they cannot behave better: I am afraid, that putting them under a captain general may make them behave worse; because it may induce them to look upon themselves as a separate distinct body, and without any connection with the rest of the people; and I wish they may not at last begin to think themselves independent of the crown; for should they ever begin to think so, they will become more fatal to the liberties, than useful against the enemies of their country, it being known by experience, that the most regular, well-disciplined troops are not always the bravest; and even the discipline itself must be different in free countries from what it is in arbitrary governments. In the latter, the people are all slaves, and therefore the strictest and most severe discipline may be enforced, if the commander in chief thinks it necessary, because the soldiers cannot be made to look on themselves as greater slaves than the rest of their countrymen: but in a free country, the discipline must not be more rigid and severe than the soldiers themselves generally think necessary for the service, otherwise they will begin to look upon themselves as the only slaves of their country, which will break their spirits, and consequently render them poltroons. They may then dance prettily through a review, but they will never dance bravely up to an enemy.

I hope, Sir, I have shewn, that our having a captain general in time of peace is not only unnecessary but dangerous; and the estimate upon our table shews it to be expensive. I know that methods have been found to enhance every article of public expence since his late majesty's accession; but how this article has been advanced so much, I cannot understand; for in 1717, and for some years afterwards, when the duke of Marlborough was our captain general, the article of the staff, I mean both the civil and military part of it, amounted to but about 7,000*l.* a year; and how it is now advanced to above 16,000*l.* is really to me a mystery; therefore, if there were no other reason, I should be for recommitting this Resolution, that the committee may enquire into this additional expence, and at least give us a reason for it before we agree to it.

The House then divided. Yeas 88; Noes 205. So it passed in the negative.

*Debate in the Commons on the Subsidy to the Elector of Bavaria.**] February 22. The House having resolved itself into a Committee of Supply,

Mr. *Pelham* rose and said:

Sir; as the treaty concluded last summer at Hanover, between his majesty and the States-General on the one part, and the elector of Bavaria on the other, as also the empress-queen of Hungary's declaration relating to the said treaty, have both been so long upon your table, that I must suppose them to have been perused by every member of this House, and as they are both referred to this committee, I think it incumbent upon me, to move for that

* From the London Magazine.



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supply which is necessary for enabling his majesty to perform his part of that treaty; but I shall first beg leave to lay before the House, as far as I am able, his majesty's motives for entering into that treaty, because from thence not only the wisdom but the necessity of the measure will appear evident, I hope, to every gentleman that hears me. I believe I need not use many arguments for persuading gentlemen, that it is the interest of this nation to preserve peace both at home and abroad: as we are a trading people, this is at all times our interest; but at present it is more our interest than usual, because of the great load of debts we groan under, and because it is not possible for us to carry on any war, without adding to that load. We have already felt one good effect of peace, by the reduction of the interest payable to the creditors of the public, which will enable us to pay off a considerable part of our debt yearly; and if peace continues but a few years, these annual payments will so much increase the stock of ready money in the nation, that I have not the least doubt of our being able to make a farther reduction, with the consent of every person concerned; for as we have not hitherto, so, I hope, we never shall make the least alteration in this respect, without such consent.

Whether we may be able, Sir, to pay off the whole of our debt, before it becomes necessary for us to engage in another war, is a question which I shall not pretend to answer; but this I will say, that it is hardly possible for us, at least it would be extremely dangerous for us, to engage in a new war, before we have paid off a great part of our present debt; for until the whole be paid off, we cannot propose to carry on any war but upon credit, and what happened to us just before the end of the last war, must convince us of the precariousness of that support. Credit, either public or private, is a support that requires a twofold ability: not only the borrower must be in such circumstances as to be deemed able to repay, but the persons willing to lend must be in such circumstances as to be able to lend. A landed gentleman may have an estate so large and so free, that no one could doubt his being able to repay, and yet he could not borrow a shilling upon a mortgage of his estate, unless we could find one who had that shilling to lend. This might be our case, should we be forced to engage soon in a new war: we might perhaps find new funds, though even that, I fear, would be difficult; but the great difficulty would be, where to find people that had money to lend.

This consideration, Sir, should induce us to neglect no measure that may tend to preserve and secure the future peace of Europe, for it is now so circumstanced, that, in my opinion, no war can happen, in which we can avoid being involved; but that peace must always be precarious, which depends upon the will of any one prince or state to break it, and the only way to prevent its being in the will, is to prevent its being in the power of any one to do so. How are we to do this? Certainly, by forming such a defensive confederacy among the powers of Europe, who are most likely to continue in the same sentiments with us, as may make it very dangerous for any one to disturb the tranquillity thereof, by attacking any one of his neighbours. The Dutch, we are certain, will in this respect be always of the same sentiments with us, and the empire of Germany we can hardly doubt of; for I believe, scarcely an instance can of late be found in history, when that empire was the aggressor. A defensive confederacy between the Dutch, the empire of Germany, and this nation, is therefore what we ought to cultivate as much as possible; and to render the empire a useful member of this confederacy, we ought to take every method that can be thought of to prevent any disunion among the constituent members of that great and formidable body; for while it remains united, and in close confederacy with the Dutch and us, for preserving the peace of Europe, I believe, no one will venture to break it. If any disputes should happen, I believe, the parties concerned will chuse to terminate their differences in an amicable manner by our mediation, rather than either side will venture to draw our resentment upon it, by beginning the attack.

To prevent any disunion in the empire is therefore, Sir, a measure which we ought constantly and chiefly to pursue. Let us then consider what are the circumstances that may most probably produce any such disunion; and we shall presently find the two chief to be, a powerful French party in Germany, and a vacancy of the imperial throne. It is therefore the business of all the powers of Europe, who are for preserving the peace thereof, to diminish as much as possible that party in Germany, which seems to be in the French interest, and to take care to prevent any



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vacancy in the imperial throne, by that method, which the laws of the empire admit, and repeated precedents have authorised: I mean the election of a king of the Romans. These were his majesty's views in concluding the treaty now under your consideration; and I do not think it possible that any thing could have been contrived more effectual for answering both these ends. The House of Bavaria have been for half a century devoted to the French interest; and by that means the House of Austria, and consequently, I may justly say, the empire itself has been twice brought to the very brink of perdition. We have had the honour of being chiefly instrumental in saving them at both these times, first, by the glorious victory at Blenheim, obtained by our general the duke of Marlborough, and lastly, by that other glorious victory obtained by our present most gracious sovereign at Dettingen. I say, by these two victories we have twice saved both the empire and the House of Austria from ruin: and now by this treaty, I hope, his majesty has laid a foundation for preventing either being ever again brought into any such danger.

I must therefore be of opinion, Sir, that if his majesty had in this treaty had no other view but that of gaining the House of Bavaria from the French interest, and attaching it to the true interest both of Germany and Europe, the treaty would have been well worth the small expence this nation is to be put to on account of it; and I cannot think any gentleman will differ from me, who reflects upon the prodigious expence this nation was put to by saving the House of Austria and the empire in queen Anne's reign, or by saving them again in the last war; for both the one and the other I must impute to Bavaria's having been gained by the French; because I am persuaded, that at the beginning of queen Anne's reign, the French would have agreed to give the House of Austria an equitable and reasonable satisfaction for its pretension to the Spanish succession, and a sufficient barrier to the Dutch, if they had not been sure of making a diversion in Germany by means of the family of Bavaria; and again, upon the death of the late emperor Charles 6, can any one imagine, that the old cardinal would have engaged his country in a war, or that Prussia would have attacked Silesia, if there had been a thorough union between the Houses of Austria and Bavaria? both these wars, which have cost this nation so many millions, would therefore have been prevented, had such a wise measure as this been resolved on before the death of king William; and that he thought of it before his death, I do not in the least question; but there was at that time in this country such a great party against him, and such a violent opposition to all his measures, that he despaired of getting such a treaty as this approved of by parliament, and this made him lay aside all thoughts of entering into any such.

Thus, I say, Sir, had his majesty had no other view in concluding this treaty, but that of gaining the House of Bavaria from the French interest, it would have been well worth the price we are to pay for it; but when we consider, how much it may contribute towards the success of the other view, meaning that of preventing a vacancy in the imperial throne, we cannot enough admire his majesty's wisdom in contriving this measure, or his conduct in bringing it to perfection at so easy a rate; for considering the large subsidies paid by France to some of the other princes of the empire, we cannot doubt of our having been outbid by France; but his majesty by his ministers laid the circumstances of Europe, and particularly of Germany, so clearly before the court of Bavaria, and placed in so strong a light the consequences of their continuing their attachment to France, that they at last agreed to accept of a less subsidy from us, than they might probably have had, and perhaps were offered by the court of Versailles.

The other view, towards the success of which I have said that this treaty must greatly contribute, is a view, Sir, that every gentleman must grant to be absolutely necessary for preserving the peace of Europe; for should the present emperor happen to die before the election of a king of the Romans, every one must foresee that a war, and a very general one too, would be the infallible consequence. The treaty of Aix-la-Chapelle put an end, as far as it was possible, to all the disputes then subsisting among the princes of Europe; but no treaty can put an end to the ambitious views of some of them: these views remain only suspended, and will no longer remain suspended, than an opportunity offers for carrying them into execution: a vacancy of the imperial throne would be such an opportunity as they would certainly lay hold of: we should then again hear of armies marching, either

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to attack or defend, from every corner of Europe; and this nation would again be reduced to the necessity of draining its manufactures for soldiers, and its commerce for sailors, and of launching out its millions yearly. The life of the present emperor I shall admit to be a very good one, and, I hope, will be a lasting one; but no certain dependence can be had upon the life of any man breathing, and no wise man will chuse to have the peace and happiness of his country depending upon such a sandy foundation. It is therefore absolutely necessary to add another life, by electing a king of the Romans during the life of the present emperor; and for this purpose no person can be thought of but the archduke Joseph, the emperor's eldest son, for two unanswerable reasons: first, because we cannot propose to obtain the emperor's concurrence in the election of any other; and secondly, because for preserving a balance of power in Europe, it is necessary that the imperial diadem should be continued in the House of Austria.

That the concurrence of the emperor is necessary for the election of a king of the Romans, I believe, no one will doubt, Sir, who knows any thing of the constitution of the German empire; and as to the continuance of the imperial diadem in the House of Austria, as there is but a mere trifle of a revenue annexed to that high office, no other prince, capable of being chosen, could be at the expence of supporting its grandeur and dignity, without a pension, or what, in the modern phrase, is called a subsidy, from France; and to have an emperor of Germany depending for his support upon the crown of France, is what that political court has been long aiming at, and what would give it an incontestable sway in Europe; which this nation has more reason to guard against than any other, not only because we have most to lose, but because the French are naturally more inveterate enemies to us than to any people in the world, which proceeds from a difference in our tempers and manners, as well as from the many bloody wars that have happened between the two nations.

I know it is said, Sir, that if the powers upon the continent will not defend their own liberties, we have nothing to do but to retire within our wooden walls, and bid defiance to all the powers of Europe. This, Sir, is easily said, but it was never thought practicable by any man of common understanding; for even the French alone would soon render themselves superior to us at sea, if they had nothing to fear from any attack upon the continent: what, then, might not the French do, were they to be supported in a war against us, by the Dutch and all the other maritime powers in Europe? Besides, if they had an incontestable sway at every court in Europe, they would command them to shut all their ports against the ships of this nation, and to prohibit all our manufactures, which would put an end to our commerce, and this in a little time would put an end to our navy; for ships of war without seamen are of no signification, and without an extensive commerce, it is impossible to have a sufficient number of seamen. Suppose we had resolved upon this selfish and foolish maxim at the beginning of the late war, what would have been the consequence? The House of Bavaria would have been established upon the imperial throne, and put in possession, at least of the Austrian Netherlands: Spain, or the Spanish branch of the House of Bourbon, would have got all the Austrian dominions in Italy; and by this means the French would have been rendered absolutely secure against being attacked by land. In these circumstances they might, perhaps, have allowed us to go on with our war against Spain for a year or two, until they had augmented their navy, especially as they knew, that in attempting any conquests upon Spain in America, we had more to fear from the climate, than from the enemy. But as soon as they had sufficiently augmented their navy, they would have sent us their orders to submit to Spain upon what terms they might have thought fit to prescribe, and if we had refused, they would have issued their orders for all the maritime powers of Europe to join with them, in order to correct the insolence of the English.

This, Sir, is a true picture of what would probably have been the consequences, had we resolved upon this selfish maxim at the beginning of the late war; and this may convince us, how necessary it is, even for this nation, notwithstanding our situation in an island, to have the power of the House of Austria preserved, and the imperial diadem continued in that family. To have the archduke Joseph chosen king of the Romans, is, therefore, a measure which we ought to pursue with all the vigour, and all the dispatch in our power; and for this purpose nothing could be

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more effectual than the treaty now under our consideration. It is true, there is not in this treaty, nor could there have been, an express stipulation for the elector of Bavaria's giving his vote for the young archduke to be king of the Romans: such a stipulation would have been contrary to the fundamental laws of the empire; but every one knows the intention of this treaty, and, I believe, no one doubts of the elector of Bavaria's being resolved to join with his majesty in that election, as soon as it may be thought proper to bring it upon the carpet, which, I hope, will be before our next meeting here the next season; for in all appearance there is already a majority of the electors ready to concur in this election, therefore, if it be delayed, it can only be to endeavour to have it unanimous, which is certainly to be aimed at, and perhaps may be obtained.

Gentlemen need not therefore be afraid, Sir, of our being led into any greater expence upon this account; for I have very good reason to expect from the present aspect of the affairs of Europe, that this wished-for election may be very speedily brought on, and ended without any opposition. But whatever may be the success with respect to the election itself, it must be granted, that this is a wise and a necessary step towards it; and even suppose we should be disappointed as to the election, yet the detaching of the House of Bavaria from the French interest, and uniting that House again with the House of Austria, is such a change in favour of the common cause of Europe, as deserves a much higher price than we are by this treaty to pay for it; therefore I shall add no more, but conclude with moving, "That the sum of 30,000*l.* be granted to his majesty, to enable his majesty to make good his engagements with the elector of Bavaria according to treaty."

Mr. *Samuel Martin:*

Sir; as soon as I heard the hon. gentleman mention his late majesty's treaty with the elector of Bavaria, I foresaw what motion he intended to conclude with, and therefore was surprised to hear him put us in mind of the load of debts and taxes we at present groan under; for to tell us, that the nation now owes more than, I fear, it will be ever able to pay, or that we have already such a number of taxes, that it would be difficult for the most expert man at ways and means to point out a new one, seems to be a very bad argument for inducing us to engage in any new and extraordinary expence. I shall grant, Sir, that it is an additional, and a most powerful argument, against our engaging ourselves unnecessarily in any new war; but surely it is not an argument for our setting up, at our own expence, to be the preservers of the peace of Europe; for I cannot admit what was insinuated by the hon. gentleman, that it is impossible for us to avoid being engaged in every new war that can happen in Europe. Whatever maxims may have of late been introduced, I shall nevertheless continue to be of opinion, that it can very rarely happen to be necessary for us to engage as principals in any war upon the continent of Europe; and as it is certain, that the more our neighbours are embroiled, the less able they will be to rival us in our commerce and manufactures, I must think, that whatever may be our duty as Christians, it is not our interest as Englishmen, to be the peace makers, or the peace preservers of Europe; and even our duty as Christians cannot oblige us, in our present circumstances, to pay for being so.

But suppose, Sir, that we were to set up as the peace preservers of Europe, and that we were to pay for leave to execute that high office, instead of being paid for our trouble in executing it, this treaty is, I think, more likely to produce, than to prevent a war. The hon. gentleman talks of our having, by this means, gained the House of Bavaria from the French interest. Sir, I lay it down as a certain rule, that by subsidies in time of peace, we can neither gain that House, nor any House in Germany, from the French interest. This will always depend upon the circumstances of Europe, at the time when a war breaks out. Upon such an occasion, every prince in Europe will chuse that side, which at that instant of time he thinks most agreeable to his interest, notwithstanding any subsidy he may have before received. If he thinks it most for his interest to join with France, and that he may do it safely, he will do so: if otherwise, he will either join the other side, or remain neutral. This we may be assured of, from the example of the late emperor, father of the present elector of Bavaria. Did he not, about the time of the battle of Dettingen, conclude a treaty with the queen of Hungary? Did he not, about the same time, accept of some of our money, or at least of some of his majesty's

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money? And yet did he not, the very first opportunity, depart from that treaty, and join again with the French, to attack the queen of Hungary? Did not the Hessians in that very war join against us, though they had for so long before received a subsidy from this nation? Did not the Danes leave us, soon after the war broke out, and accept of a subsidy from France, notwithstanding their having had a subsidy from us for some years before? In short, Sir, we have had such repeated experience, that subsidies, in time of peace, can never secure us the assistance of any prince, nor even his neutrality in time of war, that I was surprised to hear the hon. gentleman say, we have by this means detached the House of Bavaria from the interest of France.

Subsidies, therefore, in time of peace, Sir, can never be of any service to us in time of war; but they will always be attended with this mischief, that they will disable us from granting such large subsidies as we otherwise might in time of war; for a large subsidy to be paid during the continuance of a war, is a benefit that comes under consideration at the time the war breaks out, and may cast the balance in our favour, so as to induce a prince to join with us, who, without such a subsidy, would join against us. Princes, like other men, Sir, are biassed by their immediate interest, when it is consistent with their future safety. I say, their future safety, Sir, because it leads me back to what I said before, that this treaty is more likely to produce, than to prevent a war. What is it that has always given the French an interest among the princes of Germany? It is the fear of having their liberties invaded by the House of Austria. What is it that may unite Germany against the French? It is the fear, or a well grounded suspicion, that they are aiming at universal monarchy. Now I must desire gentlemen to consider seriously with themselves, which of these two fears the present treaty is most likely to propagate. If the princes of Germany should be under the former, they might, they certainly would, accept of subsidies from us, during the continuance of peace; but they would as certainly declare against us, as soon as a new war gave them an opportunity for doing so with any safety; nor would the election of a king of the Romans any way alter the case; for if some should have been bribed into that election, and others forced into it, when they durst not refuse their consent, it would only make them act more vigorously when they found an opportunity to act freely; and though there has not, for many years, been any instance to the contrary, yet it is certain, that by the constitution of the empire, a person who has been chosen king of the Romans may be set aside, and another person chosen emperor, of which we have several examples in the German history, particularly with respect to Frederick 2, who was chosen king of the Romans when but a child, and yet did not succeed his father in the imperial throne, nor got possession of the imperial diadem or power till he was, after two or three intermediate reigns, chosen emperor.

Again, Sir, if the princes of Germany should have a suspicion, that the king of France intended to subdue Germany, or to render them dependent upon the crown of France, whilst peace continued, and this intention remained only in petto, they would certainly accept of subsidies from France, should France be weak enough to offer them any such; but as soon as they saw a sufficient confederacy in a fair way of being formed against France, they would as certainly join in that confederacy; and if the imperial throne should in the mean time become vacant, before the election of any king of the Romans, they would immediately proceed to, and unanimously join in the election of a new emperor, as they did in the election of Charles 6, upon the death of his brother Joseph.

Now, Sir, to apply this to the present case, if by the ways and means which now seem to be upon the anvil, the archduke Joseph should be chosen king of the Romans, can we think that this would secure the peace of Europe upon the death of his father, if the most powerful princes of Germany should then be of opinion, that their liberties were in danger, from the overgrown power of the House of Austria, supported by the power and the money of Great Britain? In such a case, Sir, and under such apprehensions, it could not secure the peace of Europe, even during the life of the present emperor; but, on the contrary, would furnish France with an opportunity, and a good pretence to recommence the war, as soon as she found it proper for her to do so; and in such a war she might depend upon being joined by some of the most powerful princes of Germany. This consequence, Sir, if the constitution of the empire be duly considered, we have great reason to apprehend

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from our intermeddling so openly in the election of a king of the Romans, and declaring so positively in favour of the House of Austria. Every one knows, that the imperial dignity is elective: whether the continuance of this part of their constitution be for the interest of Germany, I shall not take upon me, nor have I at present any occasion to decide; because it is well known, that all the princes of Germany, or at least most of the electoral princes, are fond of preserving it, and insist that it ought to be a free election, especially that it ought to be free from the influence of any foreign power: but to lay it down as a maxim, and a rule never to be departed from, that the imperial dignity must always be lodged in the House of Austria, and that the eldest son of that House must always be chosen king of the Romans, is in effect an utter extinction of the right of election, and establishing in its stead an hereditary imperial family. Then, with regard to the freedom of an election, surely, every gentleman of this country must know and admit, that the freedom of an election may be prevented by bribery and corruption, as well as by force and violence. What then will every true German say, when he hears, that it was debated openly in the British parliament, whether or no we should bribe their electors to chuse such a person king of the Romans, as we, or at least as our sovereign should appoint?

Sir, when I consider this, I must conclude, not only that this measure will give the French a greater interest in Germany, than they ever had before, but that it will render the election of the archduke Joseph absolutely impracticable; for no elector who receives a subsidy from us can vote for that prince, consistently with the oath he takes at the election, because by that oath he is obliged to swear, that he shall give his vote without solicitation, private interest, hopes of reward, promise, or expectation whatsoever. But that no gentleman may doubt of what I say, I shall beg leave to read the oath at full length. [Here he read the oath.]

Now, Sir, I appeal to every gentleman that hears me, whether the elector of Bavaria, during the continuance of this subsidy, can give his vote for the archduke Joseph, consistently with his honour, or the oath he is to take upon the election of the king of the Romans; therefore, I hope, the advocates for this subsidy will drop their chief argument, and indeed the only inducement we can have for giving a subsidy, in time of peace, to any of the electors of Germany: even that inducement ought not, I think, to be deemed sufficient for us, in our present circumstances, to give away our money: but supposing it were, surely, the money ought not to be given in such an open and public manner; for bribery, at elections, is contrary to the laws of Germany, as well as it is to the laws of England; and therefore our ministers ought to have done as some former ministers have done, with regard to our own elections, they ought to have given it in the most secret manner, and brought it in under the head of secret service money; for experience might have shewn them, that they had no reason to dread any enquiry or punishment for applying the public money to such a purpose; and if they have any particular taste for applying our money in that way, I should much rather chuse their applying it to that of bribing elections in Germany, than to that of bribing elections in England.

But, Sir, to be serious; for the subject matter, I confess, requires it; this of the elector's oath is not the only difficulty we have to encounter. The election of a king of the Romans, whilst the emperor is alive and in good health, is a matter that has always been contested, and represented as an encroachment upon the constitution; therefore, it is said, that no such election should ever be set on foot, but when the empire is in such a great and imminent danger, as renders such a step necessary for the public safety: and that this is a question which is to be decided either by the diet, or by the unanimous decree of all the electors. For this reason many of the princes of the empire protested against the election of Ferdinand, brother to Charles 5, nor would they acknowledge him as king of the Romans, until he agreed, that upon all such future occasions the electors should first meet, to examine into the reasons of the said election, and if they did not find them just and reasonable, there was to be no election.

This, Sir, was again confirmed by the treaty of Munster, or Westphalia, in one of the articles of which it is expressly stipulated, that in the first diet, the form of the election of the kings of the Romans should be treated and settled by common consent of the states; and though this has not been done, yet, as that treaty has been confirmed by every treaty since, and par-

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ticularly by the last treaty at Aix-la-Chapelle, every elector has a right, if he pleases, to insist upon its being done, before any new election; and likewise the king of France, as one of the contracting parties in, and one of the guarantees of that treaty, has a right to insist upon seeing it done. Can we expect, Sir, that such a settlement will be soon or easily made, or that the electors will be unanimous in declaring, that a king of the Romans ought now to be chosen? Has not the king of Prussia already openly declared against it? Does he not, in some of the pieces he has published upon the occasion, allude to this unanimous consent of the electors, as a previous necessary step, before the election of a king of the Romans can be legally brought upon the carpet?

Suppose then, Sir, that by our subsidies, for that there will be more of them, I do not in the least question: I say, suppose that by such means we should prevail with a majority of the electors to chuse the archduke Joseph king of the Romans, can we expect that France will not look upon this as a breach of the treaty of Westphalia? And if France should declare war upon this account, can we be assured that some of those electors, who had concurred in the election, will not concur with France in getting it made a void election? For it is not the first time we have heard, that some of those who took money for their votes at an election, have afterwards concurred in measures for having it declared a void election. Thus, Sir, by precipitating this election, we shall precipitate, instead of prevent a war; and I am afraid, that by this nation's so busily intermeddling, and giving its subsidies so openly, for bringing about an election, we shall raise a suspicion in many of the princes and states of Germany, that their liberties are in danger from such a close connection between the House of Austria and this nation, which of course will make them join with France against us, as soon as that kingdom thinks it proper to begin a war. At least, it will render the election controverted; and let us consider, that such a controverted election is not to be determined by our committee, or at the bar of this House, but at the bar of the princes and states of Europe, none of whom will be determined by the subsidies we have lavishly paid them in time of peace, but by their respective hopes and fears at the time the war recommences.

But now, Sir, what is this imperial dignity that we are thus contending for, and to pay so much money for obtaining? It is a dignity that no man would accept of who had not a large revenue, and extensive territory of his own; for the revenue, properly annexed to it, is not near sufficient for supporting it. The emperor's revenue as emperor, does not, I think, amount to above 10,000*l.* a year, besides about as much more, which he has, by way of free-gift from the poor Jews settled in Germany, who are far from being in such affluent circumstances as those settled in England. Nay, he has not, as emperor, so much as a house to live in, only the bishop of Bamberg is obliged to provide him with one, if he has none of his own. Then, as to the power annexed to the imperial dignity, it would be of very little consequence, if the emperor had not extensive territories of his own; for it depends chiefly upon the influence he has over the diet of the empire, the aulick council, and the imperial chamber at Spire; and this influence would be very inconsiderable, if the emperor had not great revenues of his own. It is this influence that makes the House of Austria so formidable, when it is in possession of the imperial dignity; for otherwise that dignity would not be worth contending for, nor will it ever be much coveted by any other prince of the empire, unless it be from a jealousy of the ambitious designs of the House of Austria.

Does any one think, Sir, that the late emperor, Charles 7, would have become a candidate for the imperial dignity, if he had not had other views besides that of being emperor? It was not his desire of that empty title, that made him seek the assistance of France in attacking the queen of Hungary. We all know, that he had great claims upon the failure of the heirs male of that House; and to enforce these claims, he sought the assistance of France as well as the imperial dignity, in both which he was sure of the concurrence of the king of Prussia, on account of an old claim that prince had likewise upon the House of Austria. It was this that produced the late war, and the election of the duke of Bavaria to the imperial dignity; for if a very moderate satisfaction had been stipulated for those two princes, before we had guarantied the Pragmatic Sanction, I am persuaded, there would have been no war in Germany; but, on the contrary, the duke of Lorrain would have been chosen emperor without opposition, upon the death of Charles 6, whereas, if he had been

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before elected king of the Romans, without stipulating any satisfaction for those two princes, it would not have prevented a war, as they were sure of being supported both by France and Spain, as well as several of the princes of Germany; and that no confederacy was formed for opposing the united force of four such formidable potentates and their friends in the empire.

I must, therefore, conclude, Sir, that the preventing of a war upon the death of the present emperor, does not so much depend upon the previous election of a king of the Romans, as upon taking proper measures for uniting the princes of Germany; and this they will probably do of themselves, if we do not raise in some of them a suspicion, that we are going to join with the House of Austria in overturning or altering the constitution of the empire. They are all naturally jealous of the power of France, and, consequently, will never seek assistance from thence, but when they find they have no other way of obtaining justice, or of guarding against the danger they are, or fancy themselves exposed to. Whilst they are under no such influence, they will for their own sakes chuse to have the imperial diadem continued in the House of Austria, not only to prevent disputes among themselves, but because that House by its situation is most capable of defending them against an invasion from the Turks on one side, and is by its power most capable of defending them against an invasion from the French on the other: but we must not pretend to dictate to them, either by our arms or our money; for this may cause them to make a sacrifice of their safety to their indignation, which, I very much fear, may be the consequence of our granting this subsidy; and therefore I shall most heartily give my vote against it.

Mr. Solicitor General *Murray:*

Sir; the learned gentleman who spoke first against this treaty, put the debate upon a right, and, I think, the only proper footing; for the whole may be reduced to these two questions, whether the object of this treaty be attainable? and if attainable, whether it be worth the price that is to be paid for it? Now, Sir, as to the first, the election of a king of the Romans during the life, and even during the health of the reigning emperor, is a practice that has been so long established, and so frequently, nay, so constantly repeated in the German empire, that the object's being attainable can hardly admit of a doubt; for that empire did not become elective until after the beginning of the tenth century, and long before the middle of the eleventh century, Henry 3, then not twelve years old, was chosen king of the Romans; when his father, Conrad 2, was not only alive, but in full health and vigour, having reigned for above ten years after this election of his son: and from that time there is hardly an instance of an emperor who had a son, that did not get his son chosen king of the Romans in his own life-time; nor was it ever suggested, that such an election was contrary to the rights and privileges of the empire, till after the league of Smalkalde. Then, indeed, the princes engaged in that league being willing to take all the advantages they could think of against Charles 5, who was designing to get his brother Ferdinand elected king of the Romans, they first set up that pretence, that no such election could be legally made, whilst the emperor continued in good health. However, Ferdinand was soon after chosen king of the Romans, notwithstanding their protest; and at last, to get those princes to acknowledge him as such, he agreed, it is true, to a treaty with them; by one of the articles of which, it was declared that as often as there should, for the future, be occasion for electing a king of the Romans, during the emperor's life-time, the electors should first meet and determine, whether the reasons assigned for doing so, were just and reasonable. Which treaty Ferdinand promised to get passed into an imperial decree or constitution; but the other electors and princes did not, it seems, think this reasonable; for no such decree or constitution was ever made; and if it had, it might have been with reason insisted, that this determination, as well as election, was to have been by a majority of the electors, or their deputies present; for there are no words, even in the treaty, that require the determinations being unanimous.

The king of Prussia, therefore, Sir, neither did, nor could found himself either upon this protest or treaty, as neither of them can be called a law of the empire, and have been contradicted by every precedent since, as well as before. His Prussian majesty, does, indeed, lay hold of the article of the treaty of Munster, mentioned by the learned gentleman; but as that article is not confined to any time, nor makes void the elections that should be made before the settlement there stipu-



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lated, and as there have been two elections since that treaty, it is evident, I think, that the emperor and empire may take their own time for getting the form of the election of a king of the Romans settled in a diet of the empire, and that till such settlement be made, the election is to be according to the old accustomed form of proceeding upon such occasions. Therefore we need not trouble our heads much about this article; for if any prince should, upon that account, object against the next election, such prince would find other reasons for objecting against it, even though such a settlement should be previously, and almost unanimously agreed to in a full diet, and the election regularly made, according to the form so settled. There is but one way of guarding against such frivolous objections, and that is, by having such a confederacy formed in support of the election, as will render it dangerous for the prince who makes the objection to attempt to enforce it by action.

As to the oath to be taken by the electors, or their deputies, at the time of, and previous to the election of a king of the Romans, what may be inconsistent or no with that oath, is a question more proper for an assembly of divines, than for this assembly. However, as an objection has been drawn from the words of that oath, I shall beg leave to say something upon that head. And I must say, that if the words were to be taken in their most extensive sense, it would be impossible for any elector ever to take that oath; for I believe, there never was, and I am confident there never will be an election, where every one of the electors has not been solicited in favour of some one candidate or another; therefore I must be of opinion, that the sense in which those words have always been taken is, that the elector is not determined in his choice by any solicitation, or private interest; but that he gives his vote for such a prince, solely because he thinks him the most worthy of that dignity, as being the person, whose election will most conduce to the honour, the interest, and the safety of the empire in general. And in this sense the duke of Bavaria may most safely take this oath; for no one can suppose, that he could be induced by the paltry sum stipulated in this treaty, to vote for any prince, if he thought that the election of another would conduce more to the honour, interest, or safety of the empire. Besides, Sir, if gentlemen will but read the words of this treaty, they will find, that the duke of Bavaria does not promise or engage to vote for any prince, or to concur in any measure, but such as he may think most agreeable to the true interest of his country. His present way of thinking was, perhaps, known, and that probably was our motive for engaging in this treaty; but there was another reason, which I may mention, because it is publicly known. In the last war, Sir, his territories were so wasted and depopulated, that at present it is hardly possible for him to support his dignity, without the assistance of some of his neighbours: we know who would be ready to give him that assistance; and from experience we may know upon what conditions it would be given. If he has been so generous and so honourable as to reject those conditions, and refuse that assistance, rather than depart from the common cause of Europe, are not the friends of that cause obliged, both in honour and justice, to give him that assistance which he at present stands so much in need of?

This treaty, therefore, Sir, would be founded in honour, justice, and prudence, were there no such object in view, as the election of the king of the Romans; and as I have, I hope, plainly shewn, that this object is attainable, it adds infinitely to the prudence of this measure; because the concurrence of the elector of Bavaria, who is one of the vicars of the empire, must be of great consequence in bringing about this desirable event; which leads me to the next question, Whether the object of this treaty be worth the price that is to be paid for it? Upon which it is necessary to consider the power annexed to the imperial dignity, which I shall shew to be much more considerable than the learned gentleman was pleased to represent: and also the consequences that may probably ensue, should this emperor unfortunately die, before the election of any king of the Romans. As to the power annexed to the imperial dignity, the learned gentleman himself allowed, that it was very considerable, whilst that dignity continued in the possession of the House of Austria; but does not he think, that for the very same reason it would be equally considerable, or very near so, were it in the possession of the House of Prussia? Would it not, for the same reason, be very considerable in the possession of the weakest prince of the empire, supported by the influence and revenues of France? We know, Sir, that the French have always

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been aiming, either to get their own king chosen emperor, or to get such a one chosen as must depend upon them for his support; but both, I am sure, it is the interest of this nation in particular to prevent. The disposal of the imperial dignity is, therefore, an affair, in which we have a very particular concern, even supposing that it were in itself no more considerable than the hon. and learned gentleman was pleased to represent; but, Sir, the present grandeur of the House of Austria must convince us, that it is in itself of great consequence; for by one of the prerogatives annexed to the imperial dignity, they first got the dominions of Austria: I mean, that prerogative by which the emperor has the sole disposal of all imperial fiefs that become vacant in his reign, either by forfeiture, or by the failure of heirs. Besides this, he seems to have a negative, as to the empire's declaring war: for though the emperor may be engaged in a war without the empire, we never heard of the empire engaging in any war without the emperor. And in many cases there lies an appeal to the emperor, both from the aulick council and the imperial chamber of Spire; the sentences of both which courts are carried into execution in his name, and by virtue of his commission, which must always give him a considerable influence over every member of the empire.

But, Sir, what principally supports the power of the emperor, is, that if any prince of the empire has recourse to arms, and attacks any other member of the empire, without the emperor's authority, he becomes thereby guilty of high-treason, and forfeits both his life and dominions, if the emperor and empire should please to insist upon it. This is what chiefly preserves the internal tranquillity of the empire, and the union of the several members thereof; and the great licence that has, in this respect, always been taken during a vacancy of the imperial throne, is what must always render such a vacancy of the most dangerous consequence; which of course leads me to consider the consequences that might probably ensue, should the present emperor unfortunately die before the election of a king of the Romans. Considering how lately and how smartly we suffered by such an accident, I cannot think I have any occasion to enlarge upon this head. We cannot doubt of the readiness of France to propagate a civil war in Germany; and we can as little doubt of the readiness of Spain to propagate a new war in Italy. Can we suppose, that the ambition of all the princes in Germany and Italy is so fully satisfied, that no one of them would lay hold of that opportunity, to endeavour to add some new corner to his dominions? And if Bavaria should return to the maxims of his two immediate ancestors, we should have as much reason to suspect him as any other. I therefore do not think, there is a doubt to be made of such an unlucky event's being attended with a new war, especially if this motion should be disagreed to. But supposing, Sir, that it did not come the length of an actual war, or at least of such a war in which we should think ourselves bound to take a share; yet, upon such an event, we could not in prudence avoid increasing our forces both by sea and land; and that would put us to a much greater expence than we can be put to by agreeing to this motion. Let us but recollect the expence we were put to upon the last vacancy of the crown of Poland, and the war that was thereby occasioned; for though we wisely kept ourselves out of that war, yet the preparations we made for taking such a part as became us, in case either side had pushed their conquests farther than was consistent with the balance of power; those preparations, I say, cost us infinitely more than what is proposed by this treaty.

I must therefore think, Sir, that the measure now under our consideration, is really a measure of œconomy; for surely it is not œconomy to save a small sum, when that saving exposes us to the danger of an infinitely greater expence. Such a saving would be like a landlord's letting his house tumble down, rather than be at the expence of repairing it; or like a landed gentleman's exposing his estate to the danger of being overflowed, rather than be at the expence of repairing his dykes. Sir, if we consider the expence of a new war, or even the expence of our preparing for a new war, in case Europe should be brought into an immediate danger of such a misfortune, we must conclude, that the price to be paid by this treaty for getting the archduke Joseph chosen king of the Romans, is the very lowest that could be expected, and will be money as wisely and as frugally laid out, as any that was ever expended by this nation; for will any gentleman say, that it is as easy and as safe for a prince of the empire to join with France in raising a civil

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war in his native country, when the imperial throne is full, as when it is vacant? We in this country may, perhaps, be afraid of the overgrown power of France. We may have reason to be so; but it is not an object of equal terror to some of the princes of Germany. A late famous book has endeavoured to shew, that it is a mere bugbear, and that Europe has more reason to fear slavery from the overgrown power of the House of Austria. In that book the power annexed to the imperial dignity is set in a very different light from that in which the learned gentleman was pleased to consider it; and this book plainly shews, that people's way of thinking, or at least their way of talking, about the power of France and the power of the House of Austria, depends too often upon the selfish views they happen to be possessed with at the time; for no man, whose judgment is not biassed by self-interested views, can balance a moment in determining which of these powers Europe is in greatest danger from; and to imagine that the House of Austria will ever be enabled by us to bring slavery upon Europe, or to overturn the liberties of Germany, is so wild, that no man of common sense can be seduced by it, especially whilst we have upon our throne a prince as jealous of the independency of his crown, as much interested in the liberties of Germany, and as resolute a defender of both, as any prince whatsoever.

For this reason, Sir, as often as I hear that any prince in Europe begins to talk of the overgrown power of the House of Austria, I conclude, that he has some secret design of purloining a part of the territories belonging to that House, or of adding some other territory to his own, by means of joining with France against the House of Austria; and the best way for preventing the conception of any such design, or at least its being brought to the maturity of a delivery, is to continue the imperial diadem in the possession of that House by repeated elections. This, Sir, is no encroachment upon the constitution of the empire, upon the liberties of Germany, or upon the freedom of election: it is in order to preserve every one of them: the electors still retain the power of electing; and if any encroachment should have been made in the preceding reign, they may apply a remedy by the capitulation at the next election, or they may chuse an emperor from some other House, if that should appear to be the only safe way for preserving the liberties of their country. By this method their liberties have been preserved for above 300 years without any interruption, except in the case of the last emperor, and during his reign the liberty they enjoyed in Germany, was rather to be called licentiousness than liberty; which will very probably be the consequence as often as they depart from this method, without a very strong and evident reason: to prevent this consequence was the motive for his majesty to conclude this treaty, and ought to be a prevailing motive with us to approve of it.

The Dutch, Sir, whose knowledge of, and attachment to, the true interest of Europe cannot be doubted, not only approved of the negociation, but became a contracting party in the treaty, and agreed to pay their proportionable share of the expence, though, I believe, they have as little money to spare as we have; and the empress-queen of Hungary would likewise have been a contracting party, if it had been proper for her to appear in it; but by her declaration relating to this treaty, we find, that she not only approves of it, but has agreed to contribute a large sum of money towards restoring that friendship and correspondence, which of old subsisted between the Houses of Austria and Bavaria; which sum she pays on account of a claim the House of Bavaria had to the duchy of Mirandola, the right of reversion to that duchy, after failure of the family then in possession, having been transferred about 120 years ago, by the emperor, to the duke of Bavaria, for the service he had done in the Swedish wars: but this failure did not happen until 1711, and the duke of Bavaria being then under the ban of the empire, the emperor thought, that by virtue of the imperial prerogative, he had a good right, as he certainly had, to dispose of that duchy, and accordingly he sold it to the duke of Modena, for a large sum of money, which was presently paid, and that duke put in possession. Thus the affair stood at the time of the treaty of Baden in 1714, and the duke of Bavaria being, by the 15th article of that treaty, restored to all his dominions, estates and others, with all the rights, and in the same manner as he enjoyed, or might have enjoyed them before the war, the family have ever since contended, that the duchy of Mirandola belonged to them, or at least, that the family of Austria ought to pay to them the money that was paid by the

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duke of Modena, as the price of that duchy. I shall not enter into a discussion of this dispute, because it is now ended, and the empress-queen has agreed to pay the sum mentioned in her declaration, in full satisfaction of his pretension; which, without doubt, was a motive with the present duke of Bavaria, for accepting of a less subsidy from the Dutch and us, than he would otherwise have insisted on; and as the empress-queen had very strong reasons for contesting the Bavarian right to this money, we may consider her as a contributor towards attaining the object of this treaty.

Now, Sir, as to our intermeddling in the affair of an election of the king of the Romans, have not we as good a right to intermeddle in that affair as the French? Has there ever been such an election, in which they did not intermeddle? Their intermeddling, and ours, must, indeed, always be of a very different nature. They intermeddle, in order to retard or embroil the election: we do so, in order to hasten the election, and to render it unanimous, if possible; because it is our interest to preserve the internal tranquillity of Germany, and a firm union amongst the constituent members of that great body; therefore, if any danger is to be apprehended from our intermeddling in the election, that danger must arise from those who are secretly resolved to raise a disturbance in the empire, as soon as an opportunity offers. What opportunity can be more proper for such a wicked purpose, than a vacancy in the imperial throne? Consequently, if there be any danger to be apprehended from our intermeddling in this affair, it is so far from being an argument for preventing our doing so, that it is a strong argument for our interposing with the more speed and the more vigour. Let the election be but once fairly made, I have no great fear of its being controverted, or, at least, of its being opposed by force of arms; and I hope, it will be very soon made. That it should be so, is so evidently for the true interest of Germany, and, indeed, of most of the powers of Europe, that, if it be delayed, I am persuaded, it will not be for want of a majority of the electors, but in order to endeavour to remove every plausible objection, and to render it unanimous, if possible. Therefore, Sir, as I am not under the least apprehension of any bad consequence from our interposing in this affair, or from its being brought to a speedy issue by means of that interposition, I shall most heartily concur with his majesty, and I hope, with the majority of this House, in granting this subsidy.

Lord *Egmont*:

Sir; the arguments made use of in favour of the measure now under our consideration are, I shall grant, in themselves, very plausible: we are told, that it will contribute towards preserving the peace of Europe, and that we may by this means secure the election of a king of the Romans in favour of the archduke Joseph. Peace is certainly a very desirable situation; and, in the present circumstances of this nation, we have a very particular reason to desire it, because we cannot now go to war without making ourselves a prey to usurers and stock-jobbers, and must put an end to it at any rate, if it should please them to begin to doubt of our credit. It must, therefore be confessed, that at present there is nothing we should covet more than the preservation of peace: I mean, Sir, the preserving ourselves in peace; for as to the peace of Europe, it may admit of a doubt, whether we should give ourselves so much trouble about preserving it, as we have done for many years past. When our neighbours upon the continent are engaged in war, it is certain, they cannot be such formidable rivals to us in trade, as when they are in a state of settled tranquillity. It is not therefore so much our business to prevent a war upon the continent of Europe, as to prevent our being principally engaged in it, which I am afraid, indeed, is not now in our power; but, naturally speaking, it can never be our interest to engage as principals in any war upon the continent, and as auxiliaries, we should never engage farther than may be necessary to prevent its being in the power of any nation upon the continent, to render itself sole mistress of all the rest. This is our true interest as an island, and whilst we pursue this interest, and this alone, we shall always have the good will of every nation in Europe, that is not aiming at an universal sway; we shall be courted by every one in its turn, and upon every emergency may acquire some new advantage to our trade. But if we set up for directors of all the courts of Europe, and intermeddle in every dispute that may happen between the princes thereof, one of these consequences must ensue: we shall either raise a general jealousy and hatred against us, or we shall incur that

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contempt, which always attends the character of what in private life is called a busy-body.

But now, Sir, with regard to that of our preserving ourselves in peace, as I have said already, it is now more necessary for us to do so, than ever it was heretofore; but still we are to do it with honour, for character is as necessary to a nation as it is to a private man. Notwithstanding our distressed circumstances, we are not, for the sake of preserving ourselves in peace, to allow our rights to be invaded, or our people to be insulted by any nation whatsoever; for if it be once found, that we submit tamely to indignities of this kind, they will be so often repeated, that we must at last give up both our plantations and our trade. If our plantations find that we will not protect them, they will seek for, and find protection somewhere else: if our people find themselves insulted and ill-used at every foreign port they trade to, they will trade to none at all; and if we tamely bear such usage from one nation, every nation will begin to treat us in the same manner. To be conquered is certainly a most terrible misfortune; but it is terrible only to the poltroon, who will chuse to live with infamy rather than to die with glory; and surely, it is more prudent to run the risk of being conquered whilst we have some strength left, than to run that risk after we have been debilitated by submitting to repeated insults and indignities. If we engage at first, we engage with such a character as will derogate from the fierceness of our enemies, and may give us the victory, though unequally matched; but if we wait till after we have lost that character, it will add to the presumption of our enemies, and may render their attack irresistible. And this I must particularly recommend to some amongst us, who have always seemed a little too fond of negociating.

As to the negociation now before us, Sir, or rather a treaty towards a negociation, I shall readily admit, that what is called the object of this treaty is a right one, and such a one as all Europe, except France, and more particularly Germany, ought to wish for; but at the same time I must deny its being an object that we ought to pay for; and though it may be attainable, I think, that our agreeing to such a treaty as this, is the very worst method that can be taken for attaining it. I say the very worst, Sir, because it is not only founded upon a wrong principle, but, in my opinion, it will defeat the very end we pretend to aim at. What view have we, Sir? What view can we have? I am sure we can have none, as Englishmen, to intermeddle in the affairs of Europe, unless it be to prevail, as far as we can, with the several powers thereof to preserve their own independency. Shall we give them money to do so? Shall we give them subsidies in time of peace to do so? In time of war, when they are reduced to the necessity of fighting for their independency, we must give subsidies to some of them, because they cannot put their troops in motion, or march them to the general rendezvous without subsidies from us. But to give them subsidies in time of peace, Sir, in order to prevail with them to take such measures, as they themselves must think necessary for preserving their own independency, would be a most ridiculous custom, a custom we must not lead them into, because it would lead us into an expence we cannot possibly bear. The case is very different with regard to France, Sir: the views of the French court are very different from ours: their views are to subdue, to destroy the independency of their neighbours: they must give subsidies in time of peace as well as war, in order to tempt, by a present interest, such as will be so tempted, to neglect their future. This difference is so manifest, and so well understood by all the courts of Europe, that if we begin to give subsidies in time of peace, they will begin to suspect that we have some other views than those we should have as Englishmen: they will begin to suspect that our views are not for preserving their independency; but that we have at last begun to contend with France, which of us two shall render them dependent. Such a jealousy might not, perhaps, prevent their accepting our subsidies in time of peace, but it would prevent their doing any thing in consideration of those subsidies: and in case of a war, it would probably induce them to join with France against us; for if they must chuse an absolute master, I am afraid, that most of them would rather chuse the king of France, than either the king of Great-Britain or the emperor of Germany.

From hence gentlemen may see, Sir, that this treaty is more likely to defeat than to forward the election of a king of the Romans. If the electoral princes of Germany think that an immediate election is necessary for their safety, they will pro-

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ceed to it directly, without any subsidy from us, nor would all the subsidies France could give, prevent their doing so. If they do not think such an election necessary for their safety, they will of course suspect, that we have some secret view in putting ourselves to such a monstrous expence for the sake of expediting that election; and if we consider the present disputes in Germany, and the many others that may soon be brought upon the carpet, we may suppose, that France will not be at a loss to furnish some of the princes of Germany with probable grounds for harbouring such a suspicion. I have said, Sir, a monstrous expence, because, if we are resolved to attain the object of this treaty, I am very sure, that this subsidy to Bavaria is not the only one we must grant; for when the electors of Germany find that money is a going, they will, like other electors, all put in for a share. The elector of Saxony has, upon this consideration, as good a right to a subsidy as the elector of Bavaria: as he has now two daughters married into the House of Bourbon, it may be said to be as necessary to buy him off from that House, as it was to buy off the elector of Bavaria; and as he is likewise one of the vicars of the empire, and an indisputed one too, which Bavaria is not, he may insist upon as large a subsidy. Perhaps the queen of Hungary may be induced to vote for her own son without a subsidy; but it will certainly be necessary to grant subsidies to every one of the ecclesiastical electors; and as to the king of Prussia and elector palatine, they may perhaps do us the favour to save us our money, by refusing our subsidy. Nevertheless, it will, without doubt, cost us a very large sum of money; and when we have thus pensioned all the electors that will accept of our money, how are we sure that they will not find pretences for putting off the election until the first term of their subsidy be expired, on purpose that we may be obliged to renew the term, and so from term to term till the present emperor's death, when they would be obliged to proceed to an election, though we had never granted a shilling; and it is highly probable, that all the sums we had paid would then have very little influence upon the election.

Thus it is evident, Sir, that the treaty now under consideration is one of the worst methods we could have chosen, for attaining the end we aim at; and though the end be in the main a good one, yet I do not think it is of such consequence as has been represented. The laws of the empire are the same during a vacancy as during a plenitude of the imperial throne: a prince may be put to the ban by the vicars of the empire, as well as by the emperor himself; and we know that the family of Bavaria joined with France against the emperor and empire in the war in queen Anne's reign; therefore the internal tranquillity of Germany does not so much depend upon the imperial throne's being full, as upon the concord and unity of the several members of that great body, which is more likely to be interrupted than cemented by precipitating the election of a king of the Romans, especially when it is done by methods not altogether agreeable to the fundamental laws of the empire: for whatever we may think in this country, where bribery at elections seems to be grown familiar to us, a subsidy granted professedly, though not expressly, in consideration of chusing such a one king of the Romans, and at such a time as we shall desire, will in other countries be looked on as a sort of bribery. Even here in this country, we know by experience, that, though a pension or gratuity may not corrupt the heart, it will confound the head; though it may not be able to force the will, it does commonly bias the judgment of a voter. Therefore, supposing we should succeed in getting the archduke Joseph chosen king of the Romans by a majority of the electors, for that he will be unanimously chosen I very much question, it will be so far from securing the peace of Europe, or the internal tranquillity of Germany, that it will furnish France with a plausible pretence, as guarantee of the treaty of Westphalia, for re-commencing the war, even in the present emperor's life-time, as soon as a proper opportunity offers, in which war she will certainly be joined by those princes of the empire, who declared against the election, and perhaps by this very family, to whom we are now to grant a subsidy.

If the family of Bavaria, Sir, have really abandoned the French interest: if their late sufferings have opened their eyes, and made them see, that their true interest is connected with the interest of the common cause of Europe, they will concur in electing the archduke Joseph king of the Romans, without any subsidy; and consequently, our granting a subsidy must be unnecessary: it must be downright pro-

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fusion. But this treaty, I much suspect, is neither a British, nor a German, nor a Hanoverian measure: I am afraid it is a French measure. By this subsidy the duke of Bavaria will repair his shattered circumstances; and when he has done so, I am afraid he will be as ready as any of his ancestors to join with the French in attacking the House of Austria. This, Sir, is no chimerical apprehension: it is founded upon experience: his grandfather suffered severely by joining with the French in queen Anne's time; and by his suffering the family might have learned what was to be expected from their joining with the enemies of their country; yet his father, as soon as he thought he had got an opportunity, played the same game, and by a just retribution of Providence met with much the same chastisement. This behaviour of the father's did not proceed from any blind attachment he had to the French interest: it proceeded from the claims he had upon the House of Austria; and as those claims neither have been, nor can be satisfied, we have some reason to expect the same behaviour, if any future circumstances of Europe should furnish that family with an opportunity, which they may with any probable success lay hold of. Such a circumstance it is the business of the House of Austria, and indeed of every other prince of the empire, to guard against with the utmost caution; but it cannot be done by us: all we can do, is to save as much money as we can in time of peace, and before any such circumstance happens, that we may be able to give the greater assistance to the House of Austria, in case it should happen; for I shall most readily agree, that it is the interest of this nation to do all we can, without ruining ourselves, for preserving the power of the House of Austria.

This, I say, Sir, is our interest; but as we have for many years been fluctuating in our measures, I doubt much if this interest will be more uniformly pursued in time to come, than it has been in time past. The famous treaty of Hanover in 1725, was a most remarkable deviation from this interest. Instead of preserving the power of the House of Austria, our ministers then endeavoured to propagate the doctrine abroad, as well as at home, that the power of the House of Austria was become formidable to the liberties of Europe, and that for preserving a balance of power, it was become necessary to reduce the power of that House. But in 1731 we departed from this new doctrine, and so far from thinking any more of reducing the power of the House of Austria, that we entered into a most solemn engagement for preserving it entire, not only to the then emperor, but to his heirs female as well as male; and all this without taking the least care about preserving the peace of Germany, in case the emperor should die without heirs male. But this humour we did not long continue in; for in 1734 we allowed the emperor to be attacked by France and Spain, without giving him any assistance, though at that time our own particular interest, as well as the general interest of Europe, required our joining him in that war with all our might. I say, Sir, our own particular interest; for the treatment we had for years before met with from Spain, and the bad success of our commissaries, who had been appointed in pursuance of the treaty of Seville, had convinced us, that it was impossible to settle our disputes with that nation in an amicable way; and we had likewise several disputes with France, which, though then lurking under the ashes of our pusillanimity, we might have foreseen, would at last break out into a flame. Both these disputes we had then a fair opportunity for settling to our own liking; for, notwithstanding the neutrality of the Dutch, if we had joined in that war with our whole force, I believe, no one will doubt, that a vigorous and close confederacy between Muscovy, Poland, the emperor and empire, and Great Britain, might not in all human probability have given the law to the House of Bourbon. But why should I talk of the probable success of a war, which, I am convinced, would not have happened? The old cautious cardinal would not have attacked the emperor, nor would the king of Sardinia have joined in the attack, if they had not been previously assured, that Great Britain would, in breach of engagements so lately entered into, remain a passive and unconcerned beholder of the distress of her ally the emperor.

It was our passivity at that time, Sir, that laid the foundation of the last war, and of all the misfortunes that have since been brought upon the House of Austria. The powers upon the continent, and particularly the princes of Germany, had formed such a despicable opinion of our conduct, that upon the death of the emperor it became easy for the French to form a confederacy against the queen of

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Hungary, and impossible for her to form any confederacy for her support; and if the king of Sardinia had not acted a more bold and resolute part than we did at the beginning of that war, that princess must have offered a *carte blanche* to the French, before she received any effectual assistance from us. Nay, notwithstanding the wonders performed by her brave Hungarians, I am apt to believe, that her safety was chiefly owing to the fears the French were under of raising the power of Bavaria too high in Germany, and that of Spain too high in Italy. The French are wise enough to know, that the friendship of princes does not depend upon services performed, but upon those that are to be performed; and they foresaw, that if the Houses of Bavaria and Spain should be raised so high, and all rivalship taken away, by depriving the former of all dominion in Italy, they would probably join together for reducing the power of France, as soon as the latter had lost all hopes of succeeding to that crown. For this reason they would gladly have come to a compromise with the queen of Hungary, and would have left her a considerable part of her dominions both in Germany and Italy; but as she disdained to submit to any compromise, it disconcerted all their schemes; and after the treaty of peace between her and Prussia, it was not in their power to force her to a compromise, or to strip her of her dominions.

Thus, Sir, ever since 1725, or rather ever since 1720, our politics have been fluctuating between pulling down and preserving the power of the House of Austria: I wish they may do so no longer; but I must observe, that the power of the House of Austria depends, in a great measure, upon the union of the Germanic body, which union will be dissolved the moment we begin to support that House in any acts of injustice, or any encroachments upon the constitution and liberties of the empire, especially the free choice of an emperor. In my opinion, it is for the interest of Germany to have the archduke Joseph chosen king of the Romans as soon as possible, and this seems to be the opinion of most gentlemen that hear me; but our opinion signifies nothing: it must be the opinion of the electoral princes of Germany, otherwise it cannot be freely or fairly done; and it must be arguments, not subsidies, that can lead them into this opinion. These arguments the court of Vienna, as well as we, may make use of, for reasoning is not soliciting; and at a time when we have such able ministers at all the courts of Germany, supposing it were lawful, we cannot surely stand in need of backing their eloquence with bribes, or as the hon. and learned gentleman called it, a price. I am sorry he made use of the word; for it looks so much like buying and selling, that it may bring the election and the electors into contempt, and raise the character of those that may oppose it, which, I am sure, is not a proper method for rendering it effectual, or for making the people, or, if you please, the princes of Germany, zealous and unanimous in its support; and nothing, I think, can more evidently shew the impropriety of the method we have chosen, than this, that the very best advocates for it cannot speak in its favour, without making use of such language as must tend to defeat the end they aim at. Therefore, I hope, the House will, for this once, concur in saving their constituents a little money, which, I am sure, would add to the character of this assembly, and no way derogate from the character of those electors, that may hereafter concur in the election of a king of the Romans; for I cannot have so mean an opinion of the electoral princes of Germany, as to apprehend, that they would refuse or delay doing what they think for the interest of their country, merely because we denied giving them money for doing it; and as little can I suppose, that they would, for any sum we can give, agree to do what they thought inconsistent with the interest or constitution of their country.

This subsidy therefore, Sir, cannot come under that sort of œconomy, under which the learned gentleman endeavoured to place it. It is not laying out a small present sum, in order to prevent a large future expence. It is not repairing our house, in order to prevent its tumbling about our ears, or repairing our dikes, to prevent our estates being overflowed. But it is giving money to one for doing what he would do without our money, if he thought it his interest to do so, and what he will not do, though he takes our money, if he does not think it his interest to do so. Suppose, Sir, that I had a house at one end of the street, and a gentleman, who had a house at the other, should come to me and say, Sir, your house is quite out of repair, if you do not presently repair it, it will tumble about your ears; but as you,



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perhaps, have not money to repair it, there is a sum of money for you, and you may repair it at what time, and in what manner you think best. Should not I have reason to look upon such a man as a madman, even though my house then stood in need of repair? But if it stood in no such need: if there was the highest probability that it would stand in no need of any repair for twenty years to come, should not I have still more reason to conclude, that none but a madman would throw away his money in such a manner?

Sir, if we must give subsidies to foreign princes in time of peace, why should we neglect Denmark? Surely, the king of Denmark could be of as much service to us in case of a war with France as any prince of the empire; and, I believe, we may as much depend on his friendship; therefore I was surprised how we came to lose him in the late war. I suspect our conduct was not altogether blameless in that respect. In the courts of all princes, there is generally some one minister, whose advice is of greater weight than that of all the rest. Such ministers must be properly applied to, when any great point is to be gained; and it is the duty of our ministers to learn where to apply, and how to apply in the most effectual manner: it is the duty of the ministers we have abroad, to acquire this knowledge, and to communicate it to our ministers at home. Where the fault lay, I do not know; but if there be any prince in Europe, whose friendship we ought to secure by a subsidy in time of peace, it is, in my opinion, Denmark: and, considering the present connection between the two courts, I should think it would not be difficult. At the same time, I am far from saying, that such a measure is necessary. As we have nothing in view but the general interest of Europe, we must not think of contending with France in granting subsidies in time of peace. If princes will become pensioners, and for such a mercenary consideration sacrifice their honour and the future independency of their crown, we must even let them do so, and resolve to support our own independency without their assistance, which we shall always be the more able to do in time of war, the more frugal we are in time of peace; and for this reason, if there were none other, I must be against the present motion.

Mr. *William Pitt*:

Sir; I was glad to hear the noble lord declare, that even in his opinion, the object of this treaty was a right one; for if it be, I do not think it possible to assign a good reason why we should not pursue it, or why we should not be at some little expence in pursuing it; but, says the noble lord, this is a wrong method of pursuing it, because it is founded on a wrong principle, and because it will defeat the end we aim at. As to the first of these objections, his lordship seems to think, that we ought to lay it down as a maxim, never to grant any subsidies in time of peace, which is a maxim I cannot approve of; for if by doing so we may prevent a war, it would, in my opinion, be the height of wisdom; because one year's war will always cost us more than 20 years subsidies in time of peace. What are the causes of war? I believe it will be allowed, that war must always proceed from ambition or injustice; and never can proceed from either, unless the prince or state that begins the war, or is the cause of its being begun, be of opinion, that he may thereby satisfy his ambition, or support his injustice. How is the forming of such an opinion to be prevented? Surely, by having a close confederacy among those that are peaceably inclined, and an army ready to repel any attack; and if there be any member of that confederacy that can furnish troops, but cannot spare the expence of keeping them in continual pay, the other members of the confederacy must assist him even in time of peace to do so; for if they have no army ready, the chief members of the confederacy may be swallowed up before the rest can come to their assistance. It was by this neglect that France got so many advantages in the last century; for they had always a great army ready, and they made use of that army every now and then to extend their conquests; because they knew that there was no confederacy properly formed, nor any army ready to prevent or oppose their ambitious schemes. It was by this neglect, that they got peaceable possession of Spain in the beginning of the present century; for if there had been a confederacy properly formed, and an army ready to have entered upon action, I believe, neither the Dutch nor we would ever have acknowledged Philip as king of Spain; nor would they have ventured to have sent such a body of their troops into that kingdom. What happened at that time, plainly shews, how ridiculous it is to make treaties or regulations for preserving the

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peace of Europe, unless a sufficient army be kept in readiness for enforcing the observance of them.

As to the peace of Europe, Sir, I find the noble lord seems to doubt whether it be our interest to preserve it, and I should join with him, if I thought that any war could now happen in Europe, without endangering the balance of power; but even his lordship acknowledges, that it is our interest to prevent its being in the power of any prince upon the continent to render all the rest dependent upon him; and as this may now be the consequence of any war that does happen, I must be of opinion, that, even as a trading nation, it is our interest to endeavour all we can to preserve the peace of Europe, because it is safer and better for us to contend in peace for the balance of trade, than to contend in war for the balance of power. In a pacific contention for trade we have many natural advantages, and as the events do not depend upon chance, nor upon the conduct of any but ourselves, we may make sure of victory, if it is not our own fault; but in a warlike contention for power with any prince upon the continent, we must always labour under the disadvantage of the war being more expensive to us than to him, and as every event depends not only upon chance, but upon the conduct of our allies, no conduct of ours can secure us the victory.

It is evident therefore, Sir, that it is our interest to have the peace of Europe preserved, and as we cannot do this by ourselves alone, we must unite with those powers upon the continent, who are the least to be suspected of forming ambitious projects, or of making unjust encroachments upon their neighbours; and such we must reckon the Dutch, and the empire of Germany, both from the experience of their late conduct, and from the nature of their form of government. These are our most proper, our most natural allies; and it is our business to contribute, as much as we can, towards their being useful allies, that is to say, towards their being in a condition to act with vigour. Experience has shewn, that the Dutch act with most vigour under a stadtholder, which condition fortune has put them into, I believe, without much of our assistance. Will any gentleman say, that the empire of Germany is in a condition to act with such vigour when the imperial throne is vacant, as when it is full? The laws of the empire, I own, are the same in both cases. But can it be said, that it is as easy to carry them into execution in the one case as the other? Did we ever hear of any one being put to the ban of the empire under the vicars? Has not the empire always been in confusion, and the laws without effect, during a vacancy of the imperial throne? Is it not, therefore, our interest to prevent the empire being in that condition, if possible? This is so evident, that the noble lord himself was forced to acknowledge the rectitude of the object of this treaty. But, says he, the electoral princes of the empire will, for their own sakes, provide against this event: their own interest will induce them to do so without any subsidy from us. Sir, have we not had a very late, and a very fatal example to the contrary? Most people, I shall allow, are governed by their interest; but they often mistake their interest, and are often so blinded by a trifling immediate interest, as to act in direct opposition to a much more considerable interest that is remote. Self-interest is not therefore always to be trusted to; and a very consummate politician of the last age, who was concerned in many foreign negociations, has told us, that we are never to judge of what a court will do, from considering what it is their interest to do. For this reason, in opposition to the noble lord's maxim, I must lay it down as a maxim, that it may be often necessary for us to give subsidies in time of peace, in order to form and keep united a proper confederacy for preventing a war; and for this purpose nothing can at present be so effectual as that of getting the archduke Joseph chosen king of the Romans.

This, Sir, will establish the peace and restore the vigour of the Germanic body. It will make another prince of the empire much more tractable; and if we can prevail with the court of Vienna to lay aside all designs of revindicating, it will so firmly unite that great body, that we can have nothing to fear for many years to come, especially as another great empire is now, and likely to remain, in close confederacy with the House of Austria. By these means, Sir, we shall have a most powerful confederacy formed for preserving the peace of Europe; but then this confederacy, great as it is, will signify nothing against a sudden attack, unless numerous armies be kept in continual pay; and as the House of Austria must employ most of its troops in Hungary and Italy, a

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great part of those armies must be kept on foot by the other princes of the empire, who are not able to do so without some assistance from the Dutch and us; which is another reason, that may often render it necessary for us to give subsidies even in time of peace. Surely, it is more prudent in us to grant subsidies to foreign princes, for keeping up a number of troops for the service of the common cause of Europe, than to keep such numerous armies of our own here at home, as might be of the most dangerous consequence to our constitution; and if by this means we can secure their concurrence in any other measure, that may be necessary for preserving the balance of power, do not we thereby gain a double advantage?

Whether it may or may not be necessary to grant any more subsidies upon this occasion, is what I shall not pretend to foretel. But if it should be necessary, and we should thereby get the archduke Joseph chosen king of the Romans, and a number of good troops kept always ready at our call, I shall think the money well bestowed. I am very sure, his majesty will not put his people to any further charge upon this head, unless he sees it absolutely necessary; and if I should then happen to be of a different opinion, it will be with the utmost diffidence that I shall declare it. But, Sir, I can never be of the opinion, which some gentlemen seem to be of, that it is impracticable to get the archduke chosen king of the Romans whilst his father is alive and in good health, because of its being, as they say, contrary to the constitution of the empire. I am, indeed, surprised to hear such a doctrine advanced by any gentleman who has read the history of Germany. The Golden Bull is so far from laying any restraint upon the election of a king of the Romans during the life of a reigning emperor, that it provides expressly, and in the most general terms, the form and method to be observed in the election of a king of the Romans, or an emperor; and it seems to direct, that, in case of the death of a king of the Romans, another should be presently chosen: for it says, the archbishop of Mentz, having certain news of the death of the emperor, or of the king of the Romans, shall, in a month's time, give notice of it to the electors, and if he should neglect, then the electors shall in three months repair to Frankfort to chuse an emperor, or a king of the Romans. In the whole of it there is not so much as a word, that tends towards confining the election of a king of the Romans to the death, sickness, or incapacity of the reigning emperor; and the latitude, which the electors have in this respect, has been confirmed by the practice ever since: nay, Charles 4, the author of the Golden Bull, got his son Wenceslaus chosen king of the Romans, some years after that law had been established; and however inconsistent bribery may now be with the constitution of the empire, or how the electors then explained the oath they took at the election, we are assured, that, in order to obtain that election for his son, the emperor promised, and afterwards paid to each of them, 100,000 ducats for the same; which was in those days a sum much more considerable than what we are by this treaty to pay to the duke of Bavaria. But I wonder to hear gentlemen suppose, that this money is to be paid for his vote at any future election, when it is so clear, from the words of the treaty, that the money is to be paid for the troops, which he is to be at the expence of keeping always in readiness for our service. It is true, we gain this further advantage, that we shall by this treaty restore the ancient friendship and good correspondence between the Houses of Austria and Bavaria; and though opinion must always be determined by arguments, yet, I hope, the noble lord will allow, that arguments are heard with more attention, and come with greater weight from a friend than from an enemy. With regard to the election of a king of the Romans, therefore, we shall at least by this treaty gain the favour of a candid hearing; and whatever opinion I have of our ministers at the courts of Germany, I have so good an opinion of their cause, that conviction must, I think, be the consequence of a candid hearing.

This consideration, Sir, will obviate every thing that has been said for shewing, that by this treaty we shall defeat the end we aim at; for as this money is not to be paid to the elector of Bavaria, on account of his concurring in the election of a king of the Romans, but on account of the troops he is to hold in readiness for our service, no elector can expect money from us, unless we should find it necessary to engage more troops; and if we should, I hope it will be done: I am sure, it may be done without danger of raising a jealousy, that we have any views but such as we ought to have as true Englishmen. And

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as our renewal of this treaty with Bavaria, or of any treaty we may hereafter make with any other prince of the empire, will not depend upon the election of a king of the Romans, but upon the necessity we may or may not then think ourselves under to have their troops ready at our call; therefore they cannot, upon such an account, be under any inducement to put off the election. On the contrary, their having once engaged their troops to us, will induce them to bring it on as soon as possible; because by that engagement they declare themselves members of that confederacy, which is formed for preserving the peace of Europe, by which of course they expose themselves to the resentment of those, if there be any, who design to disturb the repose of Europe; and consequently they must, for their own safety, endeavour to strengthen that confederacy, of which they have declared themselves members.

As to Denmark, Sir, I know no particular reason why we should grant a subsidy to that crown, rather than to any other prince that can furnish us with as good troops, and as many as we have occasion for; and the behaviour of that court in the late war cannot, surely, be an argument for our putting our trust in them a second time. But that behaviour was not owing to any misconduct in us: we were fairly outbid: a higher price was offered from another quarter, than we thought the thing to be purchased deserved; and those who had then the influence at that court, thought proper to prefer the present advantage to every future consideration; but the king himself repented so heartily of what had been done, that I believe it hastened his death. And I am very sure, if we had engaged to give him what was offered by our antagonist, it would have been loudly exclaimed against by some gentlemen in this assembly, who never ought to find fault with our refusing to give, because they are so ready to find fault with our agreeing to give a subsidy to any foreign power, or for any consideration.

With such gentlemen, Sir, the preventing of future dangers, or the preventing of a vast future expence, is never admitted as an excuse for the most trifling present expence; and I must observe, that what the noble lord said about his neighbour's offering him money to repair his house, was not at all apposite to the present question. To have made it so, he should have supposed, that his neighbour's house was adjoining to his, and that the fall of the one would almost certainly occasion the fall of the other; in which case, if his neighbour had no way to force him to repair his house, it would be prudence in him to repair it for him, rather than let it tumble, and thereby pull his own house along with it. Even this does not come up to the question now before us; for all those concerned in the same interest are willing to bear as great a share of the expence as they can; and as a vacancy in the imperial throne is now, I may say, the only chance against our continuing in peace for a great number of years, as that vacancy, should it happen, would certainly put us to an infinite expence, it would be the height of madness in us to refuse putting ourselves to a small expence for preventing it. If by so doing we can get the archduke chosen king of the Romans, it is to be hoped, that before a new war happens, we shall be able to get rid of a great part of the debt we at present labour under.

The consummate wisdom of an hon. gentleman near me has, notwithstanding a most selfish opposition, brought a scheme to bear, that in a very few years will greatly increase our Sinking Fund. By means of that fund, Sir, by œconomy in our domestic affairs, and by making the most of our public revenue, we shall be able to pay off a very large sum yearly; and our ability to do so will increase yearly in proportion, especially if we take proper methods to put an end to all smuggling. I was not in the House when the famous Excise scheme was brought upon the carpet: If I had, I should probably have been induced, by the general, but groundless clamour, to have joined with those that opposed it; but I have of late seen so much of the deceit of popular clamours, and of the artful surmises upon which they are generally founded; and I am so fully convinced of the benefits we should reap by preventing all sorts of unfair trade, that if ever any such scheme be again offered, whilst I have a seat in this assembly, I believe I shall be as heartily for it, as I am for the motion now under our consideration.

The Question being put, it was carried for granting the Money by 197 against 74.

*Proceedings in the Commons on the Bill to naturalize Foreign Protestants.*] Feb. 5. Mr. R. Nugent moved for leave to bring in a Bill to naturalize Foreign Protestants,

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and after some debate, the question was carried in the affirmative by 152 to 69, whereupon he was ordered to prepare and bring it in; and it was on the 14th read a first, and ordered to be read a second time. On the 20th there was presented a Petition of the lord mayor, aldermen, and commons of the city of London, in common council assembled, setting forth the danger and the inutility of a general naturalization of foreign Protestants, and praying that the Bill might not pass into a law; and on the 28th there was presented, a Petition of the merchants, traders, and others residing in or near the city of London, setting forth the advantages of a general Naturalization, and praying that the Bill might pass into a law; and it being ordered that the names of the subscribers might be read, Mr. Sydenham moved, that the clerk might read each man's name, as near as he could, as it was pronounced in the language of the country the subscriber came from or belonged to; whereupon it appeared, that many, if not most of the subscribers were foreigners, or of late foreign extraction; after which the Bill was read a second time, and a motion made for its being committed, on which a long debate ensued; but upon the question being put, it was carried in the affirmative by 146 to 81.

March 1. A Petition was presented against the Bill from Thetford: and, March 4, two Petitions were presented in its favour, one from the mayor, burgesses, and commonalty of Bristol: and another from the master, wardens, assistants, and commonalty of the society of merchants adventurers, within the city of Bristol: and on the 8th the House resolved itself into a committee on the Bill, and after several debates went through the same, and made several amendments, which they ordered to be reported on the 6th, when there was presented to the House a Petition of the merchants, &c. of Bristol, setting forth, that there were not more than forty individual persons consenting to both the said Petitions from that city in favour of the Bill; and that the petitioners, who were some of the most considerable merchants, tradesmen, and artificers within the said city, were no ways consulted thereon, or privy thereto; and that they conceived, that should the Bill pass into a law, it would be prejudicial to the trade and commerce of this kingdom, by preventing its being in the power of many industrious artificers to procure a sufficient support for themselves and families, and, of consequence increasing the poors rates; that the introduction of such a number of foreigners, instead of being a support to the present happy establishment, might endanger the subversion of our constitution, and that, instead of increasing our manufactures, it would in the end tend greatly to their diminution, as many foreigners would come and reside amongst us for a time, in order only to inform themselves in the nature of the several methods and managements of our manufacturers and artificers, and after having made themselves masters thereof, return again into their native countries, and there carry on, or assist in carrying on, manufactures of the like kind: therefore they prayed that the Bill might not pass into a law.

The Bill was upon the report warmly opposed, and several divisions happened, yet the question was carried in favour of the Bill by a great majority; and on the 15th it was ordered to be ingrossed, and to be read a third time on the 20th: but the death of the prince of Wales happening on that day, the third reading was put off till the 23d; and from thence to April the 16th; and in the mean time Petitions having been presented against it from Rochester, Southampton, Oxford, Salisbury, Reading, and Gloucester, the ministers did not think fit to insist upon having such an unpopular Bill passed into a law; therefore on that day, when the order of the day was read, and a motion made for reading the Bill the third time, the question was carried in the negative: on which it was ordered, that the Bill be read a third time on that day two months; and though the session continued till after that day, the Bill was no more heard of.

*Debate in the Commons on the Mutiny Bill.*] Feb. 11. The Mutiny Bill was brought in by Mr. Thomas Gore, and read. Next day it was read a second time and committed to a committee of the whole House: and on the 19th the House having resolved itself into the said committee, when they came to the clauses for enabling general courts-martial to administer an oath to the witnesses at any trials and for obliging the officers present at any court-martial, to take the following oath, viz. 'You shall well and truly try 'and determine, according to your evi- 'dence of the matter now before you, be-



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'tween our sovereign lord the king's ma-'jesty, and the prisoner to be tried.' The earl of Egmont proposed by way of amendment, that regimental courts-martial should have the same power to administer an oath to the witnesses, and that the above oath should be taken by regimental as well as general courts-martial; but this being opposed, it occasioned a debate, in which the amendment was supported by sir H. Erskine, admiral Vernon, Mr. Fazakerly, Mr. T. Pitt, col. George Townshend, Mr. H. Bathurst, and Mr. Joddrel; and was opposed by Mr. Secretary at War, Mr. W. Pitt, admiral Knowles, col. Conway, lord George Sackville, lord Hilsborough, and Mr. Chancellor of the Exchequer. At last the question being put, it was carried in the negative by 137 to 74.

Feb. 26. The House being again in a committee on this Bill, another debate ensued, Whether a revision of the sentence of a court-martial should ever be allowed, that is to say, whether the commander in chief, after the court-martial has passed sentence of acquittal or condemnation, and is separated, and the sentence reported to him, which is not sometimes for days after, should have it in his power to order them to meet again, and consider, whether they ought not to alter their sentence. The giving of such a power was opposed by colonel Leighton, Dr. Lee, Mr. Fazakerly, Mr. Oswald, the earl of Egmont, admiral Vernon, Mr. Nugent; and supported by Mr. Secretary at War, col. Conway, Mr. W. Pitt, lord Hillsborough, the Lord Advocate, Mr. C. Yorke, and lord Barrington. Upon the question being put, it was carried for admitting of one revision by 137 to 74.

March 6. The Report of the Committee upon the said Bill having been brought up,

Sir *George Lyttelton** rose and said:

Sir; this Bill has been considered, and I am glad that it has, with all the attention that a House of Parliament ought to give to so important a subject. Some material alterations have been made in it, material at least to prevent misconstructions; and I see, with concern, how necessary that caution is now become. Misconstructions, Mr. Speaker, and misrepresentations, are epidemical in this country. What the consequence of them might be to our future tranquillity, I should tremble to think, if I did not rely on a maxim which I hold equally certain in public or private life, that truth is great, and will prevail.

But, Sir, after so much has been done in the committee to mend this Bill, I should not have expected a debate on the report two days together, especially upon a point so thoroughly canvassed as the half-pay has been, and which apparently lies in a very narrow compass! But there is so fruitful a genius in the hon. gentlemen on the other side of the House, that nothing can exhaust it; not to mention another quality in some of those gentlemen, which is of no less use to the purpose of prolonging debates, a certain happy forgetfulness of what has been said in answer to arguments maintained by them, and a delightful inward conviction, which I very much envy, that whatever they say is (to use the expression of a noble lord on the floor) undeniable, irresistible truth; and that all who differ from them are sunk in a stupid insensibility, out of which it is necessary to draw them, if possible, by frequent repetitions.

One observation has struck me through the whole course of these debates, that the more candour has been shewn in amending the Bill, the more unexceptionable it has been made—the higher the spirit of opposition against it has seemed to rise. What one should naturally infer from thence, how far such a conduct can be supposed to proceed from the genuine spirit of liberty, clear of all other motives less respectable and less pure, the House will judge: I shall only say, that I believe an opposition so carried on cannot have any great weight, either within the walls or without.

The great point, which has been the subject of so much eager altercation; this terrible clause, about which such alarms have been given: alarms that have spread from the army to the navy, as if it threatened no less than the enslaving of both; is, in truth, no more than saying, that an officer is an officer, and not a mere civil man; that he who receives the king's pay cannot be supposed to be out of his service; and that he who is in the king's service may be commanded to serve him when occasion requires, and cannot be wholly exempt from that military discipline

* In 1757 created lord Lyttelton. The above Speech is printed from his lordship's last corrected copy.

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which the necessity of the service demands. These are all the propositions contained in this clause, and which of these can be denied? It is supposing a government to be out of its senses, to suppose it could give half-pay to officers in the manner we give it, if you do not consider it as a retainer, and as an obligation to serve: for had it been given purely and simply as a reward for past services, it would then have been given only to veterans, or such officers as had eminent merit to plead. Is this the case? We know the contrary: we know it is given to many, who, in the meritorious sense of the word, have not served at all. It must be therefore considered as an obligation to serve, not an exemption from service, in the general purpose and view with which it was given. But, if it be not a total exemption from service, then allow me to say, there can be nothing more absurd than to suppose there is a total exemption from discipline, where there is not a total exemption from service.

Indeed, Sir, there are some parts of military discipline from which an officer, when in half-pay, will be exempt, not by any discharge from the service, but by his situation. They cannot have the same operation upon one living retired at his own house in the country, as upon one doing duty in a camp or a garrison; nor would they have it any more though he were in full pay, so long as he remained in that retreat: but, so far as discipline can operate upon him in such a situation, it certainly does; because he is an officer, because he still retains his commission, by which he was first subjected to discipline; and not only receives the wages of government, not only retains the rank he had, but may be promoted from the degree of a colonel to that of a field-marshal. While he has all these emoluments derived from the service, is it not reasonable, is it not fitting, that he should be bound by its laws? Where is the hardship of this, where is the injustice, where is the servitude? It is to me unaccountable, that an officer should complain of the loss of freedom, of being reduced to the condition of a slave and a janissary; because, while he receives but half-pay, he still continues subject to the same law, acting upon him in a much less degree; to the same law, I say, which he is willing to live under, in its utmost extent, when he is in full pay. Is not this in effect to declare, that the difference between freedom and slavery may be made up and compensated to him by the difference between full-pay and half-pay? But the officers of our army have more generous sentiments. Though this induction be fairly and necessarily drawn from this way of talking, it is a consequence they do not attend to when they so talk. If the military law of this country be such a tyranny as some honourable gentlemen, in the hyperboles of their eloquence, and flame of their zeal against this Bill, have represented it here; no man who values his liberty would ever submit to it for the sake of full pay, any more than of half-pay; no, not for a day, or an hour. But, if it really be as consistent with freedom as the nature of things can admit, as consistent with freedom as the military law of the freest commonwealths has ever been; if it be such, that men of the highest spirit and noblest minds, such as the officers of our army now are, need not be afraid, or ashamed, to live under it when in full pay, how the same law should make them slaves, merely because they are reduced to half-pay, I do not comprehend. We may therefore conclude, that half pay or full pay can create no distinction in relation to discipline, and to the obedience that an officer indispensably owes to lawful commands. As to any vexatious, injurious or grievous commands, I do not understand that an officer in half-pay is not as well guarded against the danger of those as one in full pay. It is the constant inspection and superintendency of parliament over every branch of the administration, that is the great guard and security to every man in this kingdom against any grievous abuse of the execution of power, either in civil or military affairs. If this security fails, if we no longer trust to it, we are undone.

All power may be abused: but does it follow from thence, that any necessary power must be taken away? If that reasoning holds, it is not the perfection, but the dissolution of government; it is not freedom, but anarchy, which must be the end of our debates.

Sir, permit me to say, it is wisdom in a government, not to tie itself down from the occasional exercise of certain powers, which yet it will not desire or think proper to use, except in very extraordinary cases; such as, probably, may never happen so long as the apprehension of those powers remains, but might become frequent, and dangerous to the state, if that apprehension were removed.

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Many imaginary cases of a hard and unwarrantable use of such powers, very affecting indeed, but very improbable, have been suggested as arguments against this Bill; and they may do very well to fill up a pamphlet, and inflame a coffee-house; but, in a House of Parliament, among wise and considerate men, they can make no great impression; because, in reality, they prove nothing, or prove too much: for, either the army itself will not be in a temper to do and suffer such things, or, unquestionably, any legal restraints to prevent them will be ineffectual and vain.

Sir, I entirely agree with the hon. gentlemen over the way in a maxim they have laid down, and insisted upon much through the whole course of these debates, that, if our army should be under bad government, our civil constitution would be in a very precarious and dangerous state. I think it would, and for that very reason I am a friend to this Bill. But I can by no means allow, either that officers in half pay are no part of the army, or that the army is under bad government; because the law by which it is governed, and must be governed, or cease to be an army, is not, contrary to the nature and reason of things, so mild a law, or quite so well guarded, in every respect, against the danger of abuse, as our civil constitution. It is sufficient if you bring it as near as you can to the model of that, and take care (as you have done) to prevent it from acting in opposition to that, by declaring the obedience, which it requires from those who are under its authority, not to be due to any other than lawful commands. Nor do I in the least apprehend, that the system of discipline established in this Bill should frighten any one gentleman of virtue and spirit out of the service, when I consider who and what the officers are that have given their opinions in support of it, during the time it has been so deliberately and carefully discussed in this House. I cannot desire a more sufficient security against any fears of that kind, on which so much stress has been laid by the hon. gentleman who began this debate, and by the noble lord who spoke last.

As to any ministerial influence over the officers of our army to be derived from this Bill, though we have heard so much talk of it upon this occasion, I protest to you, Sir, I cannot see the least reason, or colour of reason, to suspect any such thing. Ministerial influence over the army can only arise from powers lodged in the crown, with which it is evident this Bill has nothing to do; the power of promoting officers, and the power of cashiering them at the pleasure of the king, without any form of trial. The interposition of a court-martial, as regulated by this Bill, is an impediment thrown in the way of a minister, who should desire to make an ill use of the latter of these powers; and must therefore be regarded as a farther security given to the officers against any such influence, so far as the operation of this Bill can extend.

Sir, these are the lights in which the question now before you appears to me, stripped of all those disguises in which false apprehensions have dressed it up; false apprehensions, that have unaccountably been carried so far, as to suppose this most necessary Bill, without which a standing army could not be restrained from destroying itself, or every thing else, calculated to serve bad designs (I know not what, nor of whom) against the liberty of this country. Sir, permit me to say, it is by relaxing discipline, not by enforcing it, that those who have bad designs to carry on by an army must always proceed.

When they desire to leap over the fences of law, they must throw the reins loose upon the horse's neck, instead of checking or curbing him with a stricter hand. Liberty and discipline, liberty and government, are much nearer allied, and much more compatible the one with the other (whatever some may think) than liberty and licentiousness. Look in history, and you will find it universally true, that the freest states have been strictest in their military discipline; and the best men in those states have always exacted it with the greatest severity.

Good laws, says Machiavel, must be maintained by good arms, and good arms by good discipline. It is a very just maxim, which no government should forget. Late experience has shewn us, that, if we had not had good arms and good discipline, our good laws would have been lost: a very different system of laws, both civil and military, would have been dictated to us by Highland legislators, and renegado Englishmen dressed in their liveries.* It is to this army, it is to this discipline, of which such terrors are conceiv-

* This alludes to the fashion taken up at this time by all the Jacobites in England, of wearing Scotch plaids for their waistcoats, as a party distinction.



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ed, that we owe our delivery from slavery in its most abject and loathsome form. Therefore, the maintaining this discipline, the not suffering it to be relaxed and corrupted in time of peace, is essentially necessary to the safety of the whole constitution; and they who are friends to the one will be friends to the other.

The noble lord who spoke last has made mention of the peace, and supposed the goodness of it to be an argument against the necessity of many parts of this Bill. Sir, no man rejoices more than I do in the peace; I think it has snatched us from the brink of a precipice, which was just ready to sink under our feet: but, that it has freed us from all danger, I cannot flatter myself, I will not flatter any body else, so much as to say. It has removed danger to some distance; but there is still in our whole political state, with respect to foreign powers, great cause for apprehension. We must not fall under the shade of this peace; if we do, that sleep may end in death:

'In pace, ut sapiens, aptabit idonea bello,'

is a very excellent rule, to which our government has not always enough attended. I hope we shall not be negligent of it now, more especially with regard to the discipline of our army, which must be preserved in its vigour, if we desire that the army should be able to serve against our foreign enemies, or would not have it become itself the most dangerous enemy to our domestic peace and tranquillity.

The Bill was afterwards read a third time, and passed.

*Proceedings in the Lords on the Bill for regulating the Commencement of the Year, and for correcting the Calendar now in use.**] Feb. 25. The earl of Chesterfield presented to the House a Bill intituled, "An Act for regulating the Commencement of the Year, and for correcting the Calendar now in Use." And the same was read the first time, and ordered to be read a second time on this day fortnight, and to be printed.

* "Lord Chesterfield, who always had the honour, as well as the advantage, of his country in view, had long deplored that Great Britain should be almost the last of all the European powers which still persisted in the use of the defective Julian calendar. Neither the scruples which it occasioned among zealous churchmen concerning the true time of the principal anniversary festivals, nor even its considerable and increasing disagreement from the heavenly bodies (a circumstance, on account of the slowness of its progression, perceptible only to astronomers), were, perhaps, the chief motives that induced lord Chesterfield to wish for a reformation: but he was more particularly disposed to encourage it from the confusion which the different beginnings of the year might produce in settling historical transactions, and the variance there was in the accounts of almost every other state. The inconveniencies were evident; but the difficulty of obviating several inconveniencies attending a sudden alteration, and especially in overcoming people's prejudices, were not less so. These difficulties he found still more considerable than he imagined. Having consulted the duke of Newcastle; that minister, then in the zenith of his power, seemed alarmed at so bold an undertaking. He conjured the earl not to stir matters that had long been quiet, and added, that he did not love new-fangled things. Lord Chesterfield, however, did not suffer himself to be deterred by these obstacles, but resolved to digest his plan thoroughly before he communicated it to the public. With regard to the civil and political points, he consulted persons of the greatest eminence in the several parts of the world where he maintained a correspondence. He was particularly obliged to the great chancellor Daguessau for the most useful informations, and received from him a most instructive letter on this subject, which we regret much not to be able to give to the public. In the astronomical part, he consulted those of his countrymen who were most in repute for their knowledge in that science; and particularly the earl of Macclesfield, then president of the Royal Society, who readily entered into the plan of reforming the calendar, and furnishing lord Chesterfield with all the learning that was wanted on the occasion.

"Thus prepared, our earl made his motion in the House of Lords, on the 25th of February of that style he wished to amend. The speech he made on that occasion was entirely calculated to captivate the attention and secure the favour of his hearers. Witty reflections upon time; its measure, though fixed in itself, still dependent on the variable motions of the celestial bodies; a concise and clear account of the several attempts made at different periods, and by different nations, to reconcile those two measures with one another; the inconveniencies attending the present style, with respect to all public and private transactions; the method of obviating the difficulties arising from a sudden alteration: these were the principal topics which he dwelt upon. He displayed such powers of oratory in this speech, and delivered it with so much grace, that he eclipsed lord Macclesfield, who seconded his motion, and, in a speech previously prepared and since printed, entered much more fully into the argumentative part of the plan. Our earl did ample justice to his learned colleague; and in

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March 18. The earl of Chesterfield moved the second reading of the Bill.

The Earl of *Macclesfield** rose and said:

My lords; the principal view and intention of the Bill, which has been just now read to your lordships, is to introduce and establish one uniform method of reckoning or computing time, and of fixing the dates of all matters which may be transacted, not only among the subjects of the crown of Great Britain, but also betwixt them and the inhabitants of much the greatest part of Europe.

And for this purpose, it is proposed by this Bill, first, to regulate the commencement of the year, and secondly, to correct the Calendar, which at present is made use of, for reckoning and computing time, throughout all the countries and places subject or belonging to the British crown.

That, in one part of this United Kingdom, the legal commencement of the year should differ, by the space of near three months, not only from the legal commencement of the year in another part of the same kingdom, but also from the general and common usage throughout the whole, is so glaring an absurdity, and the parent of so much confusion and disorder, that I am persuaded there is no lord within this House, nor any one person without doors, who does not wish and desire that it may be removed.

For which reason, I shall not trouble your lordships with any thing farther, in support of that part of the Bill, which establishes one and the same commencement of the year throughout all the British dominions; and, in order that, at the same time, we may be conformable in this respect to the usage of all the rest of Europe, directs, that the first day of January shall be taken and deemed to be the first day of the year, in all succeeding times.

The next thing proposed by this Bill, is the correction of the Calendar, and this in two respects: first, with regard to the civil year, by which the times of our fixed festivals, and the dates of all our transactions, are determined; and, secondly, in relation to the method which we make use of to find the time of Easter, and of the moveable feasts thereon depending; in both which particulars, we differ from the practice of the greatest part of Europe.

And although the inconveniences which arise from the first of these, are not so general and universal as those which are caused by the different commencements of the year which are in use within this kingdom; yet are they not less sensibly felt by such as have dealings or correspondence of any kind with foreign countries; where the several months are reckoned to begin eleven days sooner than they do in this kingdom, or in any of the places subject to the crown of Great Britain.

That is, the same day, which, in each month, is with us the first, is called the twelfth day of the month throughout almost all the other parts of Europe; and in like manner through all the other days of the month, we are just eleven days behind them.

It must indeed be acknowledged, that

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his familiar letters expressed himself with great modesty on this point, attributing entirely to his powers of utterance the advantage he obtained over him on this occasion. A Bill so wisely contrived, and so ably supported by eloquence and reason, passed without any opposition in both Houses; but those who now enjoy the advantages resulting from it, ought to be informed, that they owe them to the industry and resolution of the earl of Chesterfield." Dr. Maty's Memoirs of Lord Chesterfield.

* From a copy printed by his lordship with this notification:

"The following Speech was not intended to go any farther than the walls of the House in which it was delivered; but the pressing instances of many lords, for whom the author entertains the greatest honour and esteem, have in a manner compelled him to make it more public; which the candid Reader will, it is hoped, consider in the perusal of it."

"George Parker, the only son of Thomas, first earl of Macclesfield, was in the lifetime of his father constituted one of the Tellers of the Exchequer, *durante vitâ*. His lordship in 1720, set out on a tour through France, Italy, &c. accompanied by M. E. Wright, who published an account of places visited, and curiosities seen during their travels, in two volumes quarto. Lord Macclesfield had a great share in framing and carrying on the act of parliament for altering the stile, and made a speech on the subject, in the House of Peers, on March 18, 1751, which he was prevailed upon to publish by desire of his noble auditors. In 1752, he was unanimously elected President of the Royal Society, was chosen a member of several foreign academies, and in 1759, received the honorary degree of L.L.D. from the University of Oxford. His death took place on March 14, 1764." Lord Orford's Royal and Noble Authors, Park's Edit. vol. 4, p. 272.

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the dates according to one calendar or account may, without any great difficulty, be reduced to those of the other.

But as it must be a matter of some trouble, and the loss of some time, to make such reductions, and that the number of the same, where dealings are large and correspondence extensive, will be considerably increased, it will surely be well worth the while entirely to remove an inconvenience, from the which there may possibly arise, if the greatest exactness be not constantly observed, more mistakes and confusion than a little time and pains will be sufficient to rectify; and which might even sometimes occasion such real losses as could never again be retrieved.

And to these inconveniences are exposed, all those who have any intercourse with other parts of Europe, and such as are any ways concerned in foreign trade and commerce; a matter of so much consequence and benefit to this nation, and upon which the opulence and strength of the same do so greatly depend.

These considerations would alone sufficiently justify the carrying a Bill of this nature into a law.

But it happens besides, that these inconveniences are only owing to our own perseverance in a practice which has long since been acknowledged to be erroneous, and, as such, been corrected in almost all the other parts of Europe; and which is, by the inhabitants of those countries, but too justly objected to us as matter of reproach.

To explain and state, in a proper manner, this and another particular in our Calendar and computation of time, and the method of correcting them provided by this Bill, will, I am sensible, oblige me to trespass longer upon your lordships' time and patience, than I could wish to do.

But as I think it would neither be reasonable in itself, nor consistent with the dignity of this House, for me to desire your lordships to give a sanction to corrections of errors of so general a concern, when neither those corrections, nor the errors themselves, have in any measure been explained to your lordships; I choose rather to trust to your candour and goodness for the pardon of my prolixity, than to appear in any degree wanting in that duty and regard which I owe to this House, by forbearing to give your lordships the best account that I am able of these matters.

And although it is now well known, that the sun does not move, and that the equinoxes and solstices do not vary or change, or at most but extremely little; yet in compliance with custom and usage, and that I may not be thought to affect singularity, I shall not scruple to make use of the common manner of speaking on these subjects, and to mention the motion of the sun, and the anticipation and variation of the equinoxes and solstices, and of the seasons which depend thereon, whensoever, in what I have to say, there shall be occasion for me so to do.

We are told by the greatest authority, that, besides many other uses for which the sun and moon were originally intended, they were to be for seasons, and for days and years: and accordingly all nations have, to the best of their skill, adapted their civil years to the apparent motion of the sun, or of the moon, or of both those luminaries jointly; the first being called merely solar years, the second merely lunar, and the last lunisolar years.

The merely solar year was anciently made use of by the Egyptians, Chaldeans, and Persians; afterwards by the Romans; and from them, by the Europeans in general to ths time.

The merely lunar year, being of so variable and wandering a nature, that its beginning travels through all the seasons in a little more than 33 solar years, has not been so much in use as the other two; though it formerly prevailed among the Arabians and Saracens, as it does at present among all the Mahometan nations.

The lunisolar year was followed by the ancient Jews and Greeks, and for some time by the Romans: and is still made use of for determining the times of the moveable feasts, as well by the Christians as by the modern Jews.

But neither the solar nor the lunisolar years were of the same form, in all the nations that respectively used them; for, in proportion to the advancement which the knowledge of astronomy made among them, the civil year, whether solar or lunisolar, was brought to correspond more nearly with the true or astronomical solar years; of which there are two kinds.

One of them is called the sidereal year; and is the time that passes betwixt the sun's leaving any fixed star, and his return to the same star again.

The other, which is called the tropical year, and is about twenty minutes [20′ 23″ 33‴] less than the sidereal year, is that

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space of time which the sun, departing from either the equinoxial or solstitial points, takes up in performing the whole circuit of the ecliptic, before he returns to the same point again: and because the four parts into which the equinoxes and solstices divide the tropical year, form the four seasons; this, and not the sidereal year, has generally been made use of for regulating and correcting the civil years, as well lunisolar as solar.

The year which Numa introduced among the Romans, was lunisolar; but, either through the ignorance or negligence of the priests, who had the care of these matters, the intercalations and corrections, necessary for preserving the proper correspondence between their lunisolar year and the tropical year, were either wholly omitted, or so very improperly applied, as to produce, at last, the greatest disorder in the Roman Calendar; insomuch that it even came to appoint the celebration of some of their festivals at seasons of the year entirely different from those whence the festivals themselves derived their names, and on account of which they were originally instituted.

Julius Cæsar, to whom, as Pontifex Maximus, the chief care of these things belonged, resolved to correct this absurdity; and to prevent, as far as he could, the like error for the future.

And, after having restored all the festivals to their proper seasons, by the advice of Sosigenes, an astronomer of Alexandria, whom he had called to his assistance, he caused the old lunisolar year of Numa to be entirely laid aside; and substituted, in the stead thereof, the Egyptian solar year of 365 days, which he ordered to be made use of for the future; but not without a correction.

For it being concluded, from the best astronomical observations then made, that the true length of the tropical year was 365 days and six hours, exceeding, by one fourth of a day the Egyptian year; and it being impossible to take notice of that excess in a year contrived for common use, which could admit no part of time less than an entire day; he directed that one whole day, being the amount of that excess in four years, should be added in every fourth year: and that this additional day should be intercalated or inserted, immediately after the seventh of the calends of March, which with us is the twenty-third day of February: and since, by this means, two successive days were each of them called *sexto calendas*, and one of them was, for distinction-sake, called *bissexto calendas*; it is from thence that those years, in which this additional day is intercalated, have obtained the name of bissextile years.

It was then thought that this form of the solar year was so perfect that the equinoxes and solstices would for ever continue to happen upon the same nominal days; and accordingly it came into use throughout Europe in general; and is still so throughout all the British dominions, being, from the name of its author, called the Julian year or account.

But time shewed it not to be so perfect as it was at first imagined to be; for at length it was found, that the equinoxes and solstices had anticipated, that is, happened earlier, by some days, than they did in some former distant years: and more accurate observations of the sun discovered, not only the error which caused this irregularity, but likewise how much that error amounted to in every mean year, taking one year with another.

For it appeared, that the tropical year had been supposed longer than it truly was, by a little more than eleven minutes, (11′. 5″.); which error would amount, in four years, to more than 44 minutes, (44′. 20″.); in about 130 years (129.9 years, or 129 years, 337½ days), to one entire day; and in 400 Julian years, to three days and almost two hours (3d. 1h. 53′. 20″.).

This error was, in the year 1582, attempted to be remedied by Pope Gregory the 13th; and he succeeded very well in the attempt.

The Pope set about this work from a desire, that the moveable feast of Easter should always be observed, as nearly as might be, at the same times of the year respectively with those at which it had been kept for some years after the general council at Nice; which was holden in the year of our Lord 325, and had prescribed a rule for finding the proper time of celebrating that festival; of which more will be said hereafter.

This however could not be effected, without correcting the civil year in such a manner, that the vernal equinox should then, and in all future times likewise, fall upon, or very near to, the 21st of March; as it did at the time of that general council, but had then anticipated by the space of ten days; and happened upon the 11th, and not upon the 21st of March.

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And for this purpose, he not only caused ten days to be dropped in October 1582, but after having consulted with the astronomers in all the universities professing the Roman religion, he directed, that the same rule of intercalation should be observed in respect to complete centuries of years, with that which then was and still is in use, with regard to single years.

That is, three successive hundredth years, which, according to the Julian account, would all have been bissextile years, were to be only common years; but every fourth hundredth year was to be, as it otherwise would have been, a bissextile year.

By this means three intercalary days being omitted in every four hundred years; the difference between that number of civil and astronomical years, is not so much as two hours, (1 h. 53′. 20″.); and will not amout to 24 hours, or one whole day, in less than 5,082 years.

The civil year, thus corrected, has taken place in most parts of Europe many years since; and is proposed by this Bill to be now received and established throughout all the countries subject to the crown of Great Britain. But because, in the year 1700, an intercalary day was added by us, and not by those who then made use of the year so corrected, or the new style; they are now eleven days before us in the reckoning of time: and therefore, if we would make our reckoning agree with theirs, eleven days must be dropped by us, at such time of the year as shall be thought to be most convenient and proper for it.

When the solar year, by which the times of all our fixed festivals, and transactions of a civil nature, are determined, shall thus be rectified; another correction, necessary to be made in our calendar, is that of our method of finding the time of the moveable feast of Easter; and of the places where the golden numbers, which we make use of for that purpose, stand in our calendar.

The general council of Nice was holden, as I mentioned before, in the year of our Lord 325, for this purpose, among others, that a rule might be laid down for finding the right and proper time of celebrating the feast of Easter; concerning which many disputes had arisen, and had been carried to the greatest excess between the western and the eastern churches. And the substance of what was agreed upon at that council was this:

That the feast of Easter should always be observed upon the first Sunday after that 14th day of the moon, by which they meant the full moon, which should happen upon or next after the day of the vernal equinox. And since that equinox then happened upon the 21st of March, and it was then thought would for ever continue to do so; it was declared, for the sake of persons unacquainted with astronomy, that the 21st of March should be considered as the day of the vernal equinox.

And astronomical learning flourishing, at that time, more in Egypt than elsewhere; it was referred to the bishop of Alexandria, to compute every year the time of Easter; and to send early notice of it to the bishop of Rome; who was to communicate it to the several bishops of the western churches.

This last particular gave a superiority to the bishop of Alexandria, which the pride of the see of Rome could not very well bear. But the ignorance of the bishops of Rome and their dependents, in these matters, obliged them, though much against their wills, to submit to it for some time.

At length, after they had made various attempts for that purpose, Dionysius Exiguus, a Roman abbot, and the inventor of that period which is called by his name, furnished them, in the year of our Lord 527, with a method of finding the first day of the moon, and consequently of the 14th, without difficulty, by means of a cycle of 19 lunisolar years, which had been contrived 432 years before Christ, by Meton, an Athenian astronomer; and is now known by the name of the golden number or the cycle of the moon; and which Dionysius then adapted to the finding in every year that 14th day of the moon, or full moon, upon which the time of Easter depended.

For these 19 lunisolar years, consisting of 235 lunations, being thought to be exactly equal to 19 solar years; the several numbers of this cycle were prefixed to those day of the month in the Calendar, on which the first days of the moon happened at that time, in the several years to which those numbers corresponded respectively, in the cycle of 19 years; upon a firm belief, that in all future times the first days of the moon would, at the end of every 19 years or complete cycle, happen upon the same days to which the numbers, corresponding to the several respec-

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tive years, were prefixed; and that when, in each year, the several first days of the moon were found, it would be extremely easy to find, in any given year of that cycle, the 14th day of the moon which would happen upon or next after the 21st of March, and consequently the day upon which Easter ought to be celebrated in that year.

This method of finding Easter, by means of the golden numbers thus placed in the Calendar, was followed for a considerable time by all the western churches; and continues still to be used in this country.

But how perfect soever this method was at first believed to be; time, that great discoverer of truth and falsehood, has shewn it to be very erroneous; partly upon account of the anticipation of the equinox, already spoken of; and partly, because the 19 lunisolar years of which the cycle is composed, are not exactly equal to, but about 1 hour and 28 minutes (1 h. 28′. 3″. 30‴.) less than 19 solar years; making the new moons anticipate, or happen earlier than they did, by 24 hours, or a whole day, in about 311 years (310.7 years, or 310 years 256½ days); whereby the golden numbers appear to be very improperly placed in our present Calendar. And although, in the time of celebrating the feast of Easter, we sometimes agree with the intention of the council of Nice, and the practice of other countries where this error has been corrected; yet it oftener happens that we differ from both.

The first cause of this error will be removed by the preceding clauses of this Bill; by means of which the vernal equinox will again happen upon, or very near to the 21st of March; as it did at the time of the council of Nice.

And the correction of the latter is of so intricate a nature, and requires so many things to be taken into consideration, that a person of much greater abilities than I pretend to, would not be able, in a discourse delivered *viva voce*, to state it in a manner that would be clear and intelligible to his hearers.

I shall not therefore attempt to explain farther, either the error or the correction of it; but shall content myself with acquainting your lordships, that it is corrected in the calendar, tables, and rules, annexed to this Bill; and that by their means Easter-day may be found, so as to agree as nearly as may be with the rule prescribed by the council of Nice, and to correspond entirely with the practice of foreign countries; not only for the present, but in future times likewise: sufficient provision being therein made, for properly shifting the places of the golden numbers in the calendar, at those periods of time when it shall be necessary so to do.

And when, in the course of what still remains for me to say, I shall mention to your lordships the authority upon which those tables and rules do stand, I am persuaded, that you will not entertain the least doubt of the sufficient truth and exactness of them.

When Pope Gregory reformed this part of the calendar, he entirely laid aside the use of the golden numbers; and substituted thirty sets of epacts in their stead. But his method is so complex, and, at the same time, so different from that of the Church of England, that it was thought better still to retain the use of the golden numbers; which will be much less troublesome, and yet, by means of the aforesaid calendar, tables and rules, will give the time of Easter as exactly as the epacts will do.

The three last clauses of the Bill are designed merely for the protection of private property, from the injury which it might otherwise receive by the proposed change of the style.

This could hardly have been effected any other way than by the provisions made in this Bill; which directs, that all things of a more indifferent nature shall be transacted on the nominal days; but that all matters which may affect private property shall not be accelerated; but shall be transacted or take place upon the very same natural days as they would have been, or would have done, if this change in the style had not been made.

For had the payments of rent and other sums of money, and the performance of other acts stipulated for by contracts in being before the change of the style shall take place, been in general accelerated and brought forward with the nominal days; so great a variety of discounts, abatements, and allowances, would necessarily have been established by the Bill, as might have been attended with more difficulties, and greater inconveniencies than those who have not thoroughly considered this matter may be aware of.

And if any one particular case should be excepted out of the three last clauses,

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or any of them; there is too much reason to fear, that it would be productive of so many other exceptions as might greatly frustrate the good intentions of the Bill.

And it is no small justification of the last general proviso, that it appears by authentic copies and extracts of edicts and placards, which the noble lord who brought in this Bill procured from abroad, that the same method was pursued, in this respect, when France, Brabant, Holland, and Zealand, laid aside the old, and received the new style.

I have now gone through the several particulars of the Bill: and though I have done it with as much brevity as the nature of the matters which I have spoken of would permit, I am sensible that I have already trespassed too long upon your lordships' patience; and shall therefore hasten to a conclusion. But yet as some parts of the Bill, and particularly the tables, and those rules concerning Easter, which are new, stand merely upon authority; and cannot, as I have observed before, be explained minutely to your lordships in this place; I must beg your permission to say a very few words in relation to that matter.

I believe I need not tell your lordships, that the first design of the Bill was formed by the noble earl who presented it to the House; and whose sagacity to discern, does not exceed his inclination to redress, any inconveniences which his fellow-subjects may labour under.

This Bill was, under his lordship's directions, drawn, and most of the tables prepared, by Mr. Davall, a barrister of the Middle-Temple, whose skill in astronomy, as well as in his profession, rendered him extremely capable of accurately performing that work; which was likewise carefully examined, and approved of, by two gentlemen, whose learning and abilities are so well known, that nothing which I can say can add to their characters; I mean Mr. Folkes, president of the Royal Society: and Dr. Bradley, his majesty's astronomer at Greenwich; the latter of whom did himself compose the three general tables, which your lordships find toward the end of the printed copy. Upon this authority do the new tables and rules stand: and as to the Bill itself, no endeavours have been wanting to make it as complete, and as free from objections of all kinds, as possible.

But if, after all, any defects or imperfections should still remain in it, I doubt not but that all of them will be discovered, and the one be supplied, and the other be removed, either in the committee of this, or the other House of Parliament, if the Bill shall proceed so far. And since I am clearly of opinion, that the general principle of it is right, and well founded, I humbly move your lordships, that this Bill be committed.*

The Bill passed without any debate.

*The King's Message concerning a Regency in consequence of the Death of the Prince of Wales.*†] April 26. The King sent the following Message to both Houses:

"George *R.*

"His majesty, having it entirely at heart to secure the future welfare and

* Lord Chesterfield, in a letter to his son, after giving an account of the reasons which gave occasion to the Bill, adds, "I determined, therefore, to attempt the reformation; I consulted the ablest lawyers and the most skilful astronomers, and we cooked up a Bill for that purpose. But then my difficulty began; I was to bring in this Bill, which was necessarily composed of law jargon and astronomical calculations, to both which I am an utter stranger. However, it was absolutely necessary to make the House of Lords think that I knew something of the matter; and also make them believe that they knew something of it themselves, which they do not. For my own part, I could just as soon have talked Celtic or Sclavonian to them, as astronomy, and they would have understood me full as well; so I resolved to do better than speak to the purpose, and to please instead of informing them. I gave them, therefore, only an historical account of calendars from the Egyptian down to the Gregorian, amusing them now and then with little episodes; but I was particularly attentive to the choice of my words, to the harmony and roundness of my periods, to my elocution, to my action. This succeeded, and ever will succeed; they thought I informed, because I pleased them; and many of them said, that I had made the whole very clear to them; when, God knows, I had not even attempted it. Lord Macclesfield, who had the greatest share in forming the Bill, and who is one of the greatest mathematicians and astronomers in Europe, spoke afterwards with infinite knowledge, and all the clearness that so intricate a matter would admit of; but as his words, his periods, and his utterance were not near so good as mine, the preference was most unanimously, though most unjustly, given to me." Chesterfield's Letters, vol. 3. lett. 215.

† "While these disputes happened in parliament, the nation suffered a most dreadful blow by the death of Frederic prince of Wales,

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happiness of his people, has maturely considered, that nothing can conduce so much (under the protection of the Divine Providence) to the preservation of the Protestant Succession in his royal family, and the support of the religion, laws, and liberties, of these kingdoms (which have been always most dear to him), as the making proper provisions for the care and tuition of the person of his successor, and for the regular administration of the government in case such successor should be of tender

on the 20th of March, about 10 at night. His royal highness had catched cold in his gardens at Kew about three weeks before, and having neglected it, it was increased, on the 12th of March, by his coming very warm from the House of Peers in his chair with the windows open. This threw him into a pleurisy, which his physicians were far from apprehending to be mortal, and upon proper applications being made, he was judged to be in a fair way of recovery till the very hour before his death; when a large abscess upon his lungs, which had been long gathering, was supposed to burst, and to be the immediate cause of his death. To what has been already said of the character of his royal highness, it may be here added, that no prince had been ever known to discover a greater solicitude than he did for acquiring a true knowledge of the constitution and interests of Great Britain. He made it his study to search for those who were eminent in knowledge of every kind. When they were independent, he rewarded them by his friendship and his confidence; and when their circumstances required it, by his patronage and munificence. He had studied the spirit of the laws of England to a much greater precision than was commonly imagined, or can be well conceived, considering the avocations he had. He was at great pains to acquire a taste in the fine arts, especially those in which the English excelled; and several poets of great fame and reputation were privately pensioned by his liberality, as well as other writers of merit. Some time before his death, he had acquired a true notion of the state and views of the several parties in court and parliament, and he had lived long enough to perceive, from his own experience, that all opposition commonly terminated in interest. This, it was generally believed by those who knew him best, had he lived longer, would have induced him to have pursued a different conduct than what some, for their own ends in certain points, had persuaded him to observe. He was a pattern of conjugal and parental tenderness, and was used to tell those he was most intimate with, that he thought it the greatest happiness of his life, that his princess was formed, in all respects, to what his affections could wish, and that he believed he should have loved her, had she been of the humblest station. Some days before his death, but without having any presentiment of it, he embraced his eldest son with great tenderness, and with this expression, 'Come, George, let 'us be good friends while we are suffered to 'be so.' The understanding reader needs no comment upon this remarkable saying; and his royal highness used to observe with some concern, that the eldest sons of his family were seldom known to live long in good correspondence with their fathers. Towards the latter part of his life, he had given great application to the study of commerce, and embraced every opportunity of patronizing and protecting every plan that was found for its advantage. In the year 1745, he showed an extreme ardour to have headed the troops that were sent against the rebels. But his majesty, perhaps for very wise reasons, disapproved of his request; nor did he, so far as it was known, ever manifest any martial disposition but upon that occasion. Though his family was very large, and his court splendid, yet his œconomy was surprizing; and the private debt he left behind him, was far less than it was generally believed to be. His issue were five sons and three daughters, and the princess was far advanced in her pregnancy at the time of his death. The mourning for him was general and sincere, and all ranks and degrees bewailed his loss as a public calamity." Tindal.

"In the session of parliament which commenced on the 17th of January 1751, the party of the Prince seemed likely to gain great accession from the just unpopularity which the ministry incurred by the subsidiary treaties in Germany; while lord Cobham and his friends meditated a secession from the ministerial phalanx. But the unexpected death of the Prince, on the 20th of March 1751, gave a new aspect to public affairs, and produced a great and singular change in the temper of the court, and the counsels of the kingdom. The effect in the House of Commons is explained by Mr. Fox in a few words: 'The division,' he says, 'against the army last Wednesday, was '43. Dr. Lee spoke for us, and gave his true 'reason, the Prince's death, which' (he said) 'makes us much weaker than we were. It 'makes our side much stronger in parliament, 'I am sure; for, except lord Egmont, who 'spoke with great moderation, lord Middlesex, 'and Mr. Marten, no one of the prince's family 'voted against us. Of the rest, one half was 'away, and the other with us. I don't foresee 'a debate this session, nor any difficulty to the 'minister, but that of getting 40 every day to 'make an House.'

"The effect in the cabinet was instantly visible; the king acquired a temporary emancipation from the influence of the Pelhams; and the duke of Newcastle, who, before this event, is represented as, 'afraid of the king, 'to a degree that was ridiculous,' became more timorous than ever. The king wished to prevent the entrance of lord Harrington into the cabi-



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years, by means whereof their safety and princely education may be secured, the public peace and good order maintained, and the strength and glory of the crown of Great Britain suffer no diminution: for these reasons, his majesty, out of his paternal affection and tenderness for his royal family and for all his faithful subjects, earnestly recommends it to both Houses of Parliament, to take this weighty affair into their most serious deliberation: and proposes to their consideration, that, when

net, on his return from Ireland; to introduce lord Granville into the administration, and to confer on lord Holdernesse the seals of secretary of state; and the will of the sovereign was now a law. The reconciliation between lord Granville and the duke of Newcastle was effected through the mediation of Mr. Nugent: he arranged a private meeting at his own house; the two rival statesmen passed a convivial evening together, and the next day their coalition was announced. The duke of Dorset succeeded lord Harrington as lord lieutenant of Ireland, and his place of president of the council was conferred on lord Granville.

"The public were justly astonished at this coalition, after the repeated declarations of the Pelhams to the king, to the parliament, and to their friends and acquaintance, both in public and private, that they would never again act with Granville; but their honour was saved, by the promise of the new president, to act, like the earl of Wilmington, a subordinate part. He was induced to submit to this condition, from the embarrassment of his circumstances, the decline of his health, and want of parliamentary influence, notwithstanding his aspiring genius, commanding talents, and the favour of his sovereign. He lent his name and talents to the administration, and continued a cypher in the government until his death, without a single attempt to regain his former superiority.

"The resolution of the king to give the seals to lord Holdernesse, coincided with the inclination of Newcastle to remove the duke of Bedford, and his adherent lord Sandwich. The duke of Bedford, on receiving the seals, affected to declare that he accepted them only for six months; but those who were acquainted with the discordant tempers of the two secretaries predicted that their union would not continue as many weeks; and the broils which soon arose between them, seemed to justify this prediction. But a variety of circumstances prevented a rupture until the death of the Prince. The dukes of Cumberland and Newcastle had been closely united by their views for the continuance of the war, and had concurred in promoting Bedford and Sandwich, who entertained the same sentiments. But soon after the conclusion of the peace, Newcastle,

'Who could not bear a rival near the throne,'

became jealous even of the duke of Cumberland's ascendancy in the closet; and a disagreement soon followed, which broke out into an open rupture a few months before the Prince's death, on the attempt to remove lord Sandwich.

"The state of this dispute is too well drawn by Mr. Fox in a letter to sir Charles Hanbury Williams, not to be submitted to the reader in his own words: 'I shall confine this letter 'chiefly to the only subject I must not venture 'by the post, the strange situation of the court 'here. The duke of Bedford and duke of New-'castle hate one another irreconcilably, so do 'lord Sandwich (who governs the former,) and 'the duke of Newcastle. His royal highness 'the duke, and the duke of Newcastle, are 'more declared enemies than you can imagine. 'His royal highness's great favour to lord 'Sandwich was perhaps the first, and is per-'haps the chief cause of that hatred which is 'now a deep-rooted one. The brothers disagree 'as much or more than ever; but Mr. Pelham 'knows he can neither govern, or separate him-'self from his brother, and therefore seems to 'have given over the thoughts of prevailing in 'any measures that might reconcile or barely 'prevent a rupture. Thus stood affairs when 'his majesty came from abroad. The duke of 'Newcastle flattered himself that his grace of 'Bedford would willingly quit the seals to be 'master of the horse, or president, and perhaps 'he would, if the duke would permit the duke of 'Newcastle to carry such a point. The duke 'of Newcastle flattered himself, with the as-'sistance, which he certainly has, of lady 'Yarmouth, that he had brought his majesty 'to that temper, that if the duke of Bedford 'would not go *de bon gré*, he would force the 'seals from him. But in this too he was dis-'appointed. His majesty, very wisely con-'sidering, I suppose, that nothing was more 'silly than for his ministry to risk so great, so 'sure a majority as we have, only to satisfy the 'peevish or personal resentment of the duke 'of Newcastle, took the part of shewing that 'whoever was the aggressor would have his 'majesty against him, and has postponed the 'giving away of all places, for fear of disputes, 'till at least the end of the sessions. The 'dukes of Newcastle, then, and Bedford, are 'trying which can keep their temper best and 'longest. The duke of Newcastle has the 'power, which I should think a great help.'

"The king was no less desirous than the duke of Newcastle to part with lord Sandwich; but wished to retain the duke of Bedford, though not in the office of secretary of state, which he had destined for the earl of Holdernesse. While this scheme was agitating, Mr. Fox, from his attachment to the duke of Cumberland, advised the duke of Bedford to offer the resignation of the seals, and to accept for himself and lord Sandwich such places in the cabinet as his majesty should approve, and to which his ministry would not object; but the

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the imperial crown of these realms shall descend to any of the issue of his son the late prince of Wales being under the age of eighteen years, the princess dowager of Wales their mother should be guardian of the person of such successor, and regent of these kingdoms, until they shall attain such age, with such powers and limitations as shall appear necessary and expedient for these important purposes."

*Joint Address of both Houses thereon.*] To which the two Houses returned the following joint Address:

"Most gracious Sovereign,

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons, in parliament assembled, approach your royal throne, with hearts filled at the same time with the deepest sense of gratitude to your majesty, and with the most serious and anxious concern for the future welfare of our country.

"To return your majesty our thanks for your most gracious Message, falls infinitely short of those sentiments with which the subject of it inspires us. It excites in us the most sensible feeling of all those blessings which we have enjoyed during your auspicious and glorious reign; of the mildness and benignity of your government; and of that constant protection which your majesty has always extended to our religion, laws, and liberties; which you have demonstrated by your conduct, as well as declared by your royal words, to be most dear to you. Happy would it be for all your faithful subjects, if heaven, in mercy to these kingdoms, would graciously permit a reign, so distinguished with every mark of goodness that can endear a British monarch to his people, to be prolonged beyond the ordinary date. To look forward to its period, anticipates a grief which no words can express. Your majesty's greatness of mind, shewn in your message, has called upon us, and set us the example, to enter into such considerations as the high importance of the occasion requires.

"Not content with being the great instrument of our happiness during your own time, your majesty has pointed out to us a generous concern to provide for the continuance of that happiness (as far as human foresight can do) after God shall have deprived us of the inestimable blessing of your immediate care. In return for this paternal goodness, permit us to assure your majesty, that we will lose no time in taking into our consideration the weighty affair laid before us in your message.

"We are truly sensible of the high and eminent qualities of her royal highness, the princess dowager of Wales; and we look upon what your majesty has been graciously pleased to propose to our consideration, as the result of your wisdom and tender concern for your royal family, and the interests of these kingdoms; and we shall have the most dutiful regard of what your majesty has been pleased so wisely to recommend.

"In our deliberations on this important subject, we shall think it our duty, as well as our essential interest, to have the strictest and most zealous attention to the preservation of the Protestant Succession, as settled by law, in your royal family; the numerous hopeful branches whereof, formed by your instruction, and led by your example, we look upon as so many pledges of the security of our religious and civil rights to future generations.

"May it please the Divine Providence to grant your majesty such confirmed health, and length of days, as may render those provisions, which your wisdom has suggested to us on this occasion, unnecessary in the event; that we may very long enjoy the benefits of your gracious government; and your majesty the dutiful and affectionate returns of a most obliged, loyal, and grateful people."

*The Regency Bill passes the Lords.**] May 7. The Duke of Newcastle presented

duke, over-ruled by the cabals of what was called the Bedford-house party, rejected the advice, and resigned the seals in disgust, at a time when the death of the Prince rendered his defection of little consequence; in his audience of leave he expatiated on the duke of Newcastle's conduct in terms of the highest indignation and contempt.

"The seals were given to lord Holdernesse; lord Sandwich was succeeded in the admiralty by lord Anson, the son-in-law of lord Hardwicke; lord Trentham, another of the duke's friends, was removed, and the whole Bedford party entered the lists of opposition. The post of master of the horse, which had been vacant since the death of the duke of Richmond, and was destined for the duke of Bedford, was granted to the marquis of Hartington, who was called up to the House of Peers." Coxe's Memoirs of Horatio Lord Walpole.

* "May 7. Went to the House of Lords. The Regency Bill brought in and opened by

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to the House a Bill, intituled, "An Act to provide for the administration of the government, in case the crown should descend to any of the children of his late royal highness Frederic prince of Wales, being under the age of eighteen years: and for the care and guardianship of their persons." And the same was read the first time. It afterwards passed the Lords, and on the 13th was sent to the Commons.

*The King's Message concerning a Council of Regency.*] May 8. The Duke of Newcastle delivered to the Lords the following Message from the King:

"George *R.*

"The House of Peers having under their deliberation his majesty's Message, relating to the making proper provisions for the regular administration of the government, in case his successor should be under the age of eighteen years, until such successor shall attain that age: his majesty thinks fit to propose to their consideration, that, for the assistance of such person as shall be appointed Regent of the kingdom during that time, a council may be constituted, with such particular powers only as shall appear to be reasonable and expedient; and that his majesty's most dear son William duke of Cumberland, the archbishop of Canterbury, the chancellor or keeper of the Great Seal of Great Britain, the treasurer of Great Britain or first commissioner of the treasury, the president of the council, the keeper of the privy seal, the high admiral of Great Britain or first commissioner of the admiralty, the principal secretaries of state, and the chief justice of the King's bench, for the time being, may be members of such council."

*Heads of the Regency Bill.*] May 13. The Regency Bill was sent down from the Lords and read a first time. On the following day it was read a second time and ordered to be committed on the 16th. The following are the Heads of the said Bill:

HEADS OF THE REGENCY BILL.

"If the crown shall descend to any of the children of his late royal highness Frederick prince of Wales, the Princess his dowager shall be Regent of the kingdom, and guardian of such child, till it shall arrive at the age of eighteen years.

"All acts of regal power, done otherwise than by her royal highness, during her regency, shall be void.

"There shall be a Council of Regency to assist her royal highness, consisting of the duke of Cumberland, and such persons as for the time being shall be archbishop of Canterbury, Lord Chancellor, Lord Treasurer, Lord President of the Council, Lord Privy Seal, Lord High Admiral, the principal Secretaries of State, and Lord Chief Justice of the King's-bench, toge-

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the Duke of Newcastle. Second reading to-morrow. Nothing said, but by the bishop of Worcester, who moved, that it might be printed, and that the Lords might have time to consider it, between the second reading and committal. The duke of Newcastle agreed to the printing, and it passed, upon the question put. In less than ten minutes after the question was carried, the duke got up and said, that he was told by some of the lords, that it was very improper to print the Bill, upon which they resolved not to print it, and the bishop, being supported by no one lord, very decently offered to withdraw his motion. Surely, it was too late after it became a question, voted and agreed to.

"May 8. At the House of Lords. Regency Bill read a second time, and committed for Friday: not a word said against it.

"May 9. Had intelligence that, upon a message from the earl of Bath, the princess had signified her entire approbation of this Bill. I had much consultation what was to be done, considering how many fruitless pains (as it now appeared) I had taken to unite and form a party, and yet no sort of concert was thought upon, even in these great points. The opinion seemed to be, that I should not go to the House.

"May 10. Went to the House of Lords. They went into a committee upon the Regency Bill. The clause for erecting the council was opposed by earl Stanhope alone, who said that such a council was a novelty, and that he was against it, because he thought it unnecessary, till he heard better reasons given for it, than he had as yet heard. Nobody answered, or supported him, and he gave no other reasons. So the Clause was carried by a division of 92 against 12. When they came to the Clause of prolonging the parliament, lord Talbot stood up, and showed the weakness of the Chancellor's arguments, which were drawn from history; and then said, the prolonging the parliament was an invasion of the people's rights, that it was the means of perpetuating a corrupt one, and was one of those things that the whole legislature could not do, because they could have no legal power to do it. Lord Granville spoke warmly for it, as the best part of the Bill, all of which he approved of; and no one lord seconded or supported lord Talbot." Dodington's Diary.



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ther with any other four whom his present majesty shall appoint.

"The Council shall meet and sit as her royal highness shall direct; any five, but not a less number, shall act, and of this council the duke of Cumberland shall be chief or head.

"The princess shall take an oath to execute the office of Regent, and the members of the Council to execute their respective offices according to this act.

"The Regent and Council shall qualify themselves as for offices of trust.

"Upon the demise of the present king, the privy council shall meet and cause his successor to be proclaimed, under the penalty of high treason.

"The consent of the majority of five or more of the Council shall be necessary in all creations, pardons, gifts, grants, dispositions, instructions, orders, or authorities.

"The Regent shall not make war or peace, or ratify treaties, prorogue, adjourn, or dissolve any parliament, without the consent of the Council, nor give the royal assent to any act for altering the succession.

"The Regent shall not remove the officers of the crown, who, by virtue of their offices, are of the Council, from such offices, without the consent of the majority of the whole Council, or the address of parliament.

"Vacancies by death or removal to be filled up by the Regent in two months, with the consent of the major part of her Council, and not otherwise.

"The parliament in being at the descent of the crown to a minor, if no parliament then in being, the preceding parliament shall continue three years, except the minor be sooner of age, or the parliament be dissolved by the Regent with consent of Council.

"If the minor marries without the consent of the Regent and Council, such marriage shall be void, and all persons concerned guilty of high treason.

"If on any question the division of the Council, be equal the regent has the casting vote.

"All commissions, letters patent, &c. to change the order of government established by this act, shall be void, and all persons concerned incur a premunire.

"The act of 28 Henry 8, and 1st of Edward 6, shall be repealed."

***Debate in the Commons on the Regency Bill**.]** May 16. The House having resolved itself into a committee on the Regency Bill, Mr. Pelham in the chair†,

Mr. *Thomas Prowse* rose and said:

Sir; as there are some words at the end of this Clause, which relate to certain following regulations in the Bill, and as I shall be for having those regulations left out, I believe it will now be proper for me, to declare my sentiments upon this affair in general, and to give my reasons for being against those regulations; because, if the majority of this House should concur with me in opinion, (a piece of good fortune I very seldom meet with when I happen to differ from the hon. gentleman in the chair) these words must be left out, or the clause must be postponed. When I say this, I believe every gentleman will suppose I mean the words "restraints, limitations, and regulations following:" for if it should be thought right to put the royal person, so wisely and so graciously recommended to us by his majesty for regent in case of his death, under no restraints, limitations, or regulations, but such as the sovereign power itself is now by our constitution subjected to, those words must certainly be left out of this clause; and this I must declare to be my opinion, not only from the knowledge I have of the justice, wisdom, and discretion

* From the London Magazine.

† "May 13. I did not go to the House, where the Regency Bill was read the first time. Sir Francis came home and acquainted me, that nobody but Mr. Thomas Pitt and he spoke against the Bill. The Tories totally silent. The court for it. Dr. Lee and Mr. Nugent speaking for it. All the Princess's and late prince's court for it.

"May 16. Committee of the Regency Bill—the Clause establishing the council debated; opposed, in a very fine speech, by the Speaker. Mr. William Pitt and Mr. Fox had high words, though they were both for the Bill. Mr. Pitt for the restrictions, lest the next regent should claim full powers, if the princess should die, glancing at the duke. Mr. Fox also for them, but defending the duke. They replied upon each other two or three times, but Mr. Fox did not vote at last. Mr. Pitt and the Grenvilles in office voted for the Bill, but lord Cobham spoke and voted against it. Thus it was reported to me, but I was not there.

"May 17. They went to-day, in the House, upon the clause of prolonging the parliament. The committee sat late. No concert between any five people, as I am told." Dodington's Diary.

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of her royal highness, but for many other reasons, which I shall now beg leave to explain.

I hope it will be allowed, Sir, that by our constitution the whole executive power of the government is lodged in one single person under certain limitations, which are now perfectly known, and by which the liberties and privileges of the people are secured. This is our true constitution: this is what we never did depart from without involving ourselves in difficulties and misfortunes; and this is what we never ought to depart from without an evident necessity. How can this necessity arise, Sir? Not from any danger the people may be exposed to from a sole regent: for they are sufficiently guarded by the limitations which the sovereign himself is subjected to. It can therefore arise from nothing but the nature of our monarchy, which our ancestors wisely made hereditary, to avoid those misfortunes which elective monarchies are always exposed to. By this wise institution, as no human institution can be without some inconveniencies, we are exposed to the danger of having sometimes an infant king; and when this misfortune happens to us, we must necessarily lodge the executive power of our government in the hands of one single person with sovereign power, or we must circumscribe his power, by saddling him with a council of regency. The latter, whenever it is done, is always an encroachment upon, or rather a total alteration of our constitution, and experience has shewn, that it can hardly ever fail of producing factious disputes and violent animosities in the nation; for through our whole history we cannot produce one instance where it did not do so; therefore we never ought to have recourse to it, except when it becomes necessary for avoiding a greater danger, which is that to which an infant king, and his hereditary right to the crown, may be exposed, by appointing a sole regent or protector with sovereign power; for the nature of man is such, that it rarely happens, that one who has once got possession of sovereign power, can willingly or freely consent to part with it.

From the nature of our constitution therefore, Sir, it is extremely easy to determine what we ought to do upon the present occasion. What necessity, what inducement can we have now to expose the nation to those factions and animosities that always have arisen, and always must arise from our altering our constitution, by dividing the executive power of our government, and lodging it in several hands? Can we apprehend any danger to the person of the infant king from his mother? Can we suppose that she will ever have a thought of usurping the crown, or of keeping possession of the sovereign power for any longer time than by this law we are to prescribe? No man, therefore, can now have any inducement for exposing the nation to factions and animosities, and rendering her government uneasy to her, by cramping it with a council of regency, unless it be those who have now by favour the dispensing of the sovereign power, and who desire to have that established by law which they now hold only by favour. If there be now such a man, or such a set of men, in the nation, I am sure it is a strong argument against our saddling the regent with any council of regency: It will be the height of madness to chuse those very men for the council of regency, because it is plain they design, that the regent shall be nothing but a name, that she shall be governed by them, or not be able to govern at all.

I know it will be said, Sir, that by the Bill now before us, the regent may act in many cases without the advice or consent of the council of regency, and that she may dispose of all posts and preferments, except a few named in the Bill, by her own sole authority; and particularly, that she has the sole disposal of all commissions in the army, and the sole power of issuing all orders and instructions to the troops; but if we closely attend to this, we shall find that her power, even in these respects, is altogether elusory; for in the present state of things, when all principle seems to be out of the question, when immediate self interest seems to be the only motive for action, they that have the power of the purse must of course have all other power, and the public purse the regent is to have no power of, because she cannot remove, no not so much as an inferior commissioner of the treasury, without the consent of a majority of the council of regency. Then, Sir, with respect to the army, the regent, by the rules of our constitution, can grant no commission to any officer, nor issue orders to any troops, but what must be countersigned by the secretary at war; and can we suppose, that the regent can find any secretary at war, that will act in direct opposition to him who has the direction of the council of regency, and of the treasury that is to

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pay him his salary? As to the navy, we may easily see, that the regent can have no power over it; because all commissions, and all orders and instructions must be countersigned by the lord high admiral, or a majority of the commissioners of admiralty, over whom the regent is to have neither power nor influence; and as to all ecclesiastical and civil employments, we know that the grant of most of them, indeed I may say of all that are to be granted by the crown, must have the concurrence of the great seal, the privy seal, the secretaries of state, or the commissioners of the treasury; and none of these the regent is to have any power over. Nay, in my opinion, she can have no power over even her own privy council; because the president of it she can neither remove nor appoint, but by the advice of her council of regency.

Thus, I think it is plain, Sir, that the regent must allow herself to be governed by him, who happens to get the ascendancy in this council of regency; for if she does not, confusion must be the consequence; and how dangerous this may be to herself, to her children, and to the nation, I need not desire gentlemen to reflect. Nay, let her manage whatever way she will, the consequence may be fatal; for if she allows herself to be governed by the person who gets the ascendancy in the council of regency, it will be the same as if that person had been appointed sole protector with sovereign power, which may be as fatal to her and her children, as the sole protectorship of the duke of Gloucester was to the widow and children of Edward 4, and if she contends with that person in any measures of government, it will introduce confusion, which may be as fatal to her family, as the confusion introduced by the usurpation of Richard 3, was to the family of York.

These, Sir, are the internal dangers we have justly to apprehend from our incumbering the government of the regent with a council of regency; but as to the external dangers, they are still more considerable, because more national. It is very certain, Sir, that a sole and absolute government is, in time of war or great danger, the most capable of exerting its natural strength, if directed by wise counsels: the Roman commonwealth would often have been ruined, if they had not had recourse to a dictator, who, during his dictatorship, was as absolute as any eastern monarch: 'Opus esse non forti solum 'viro, sed etiam libero, exsolutoque legum 'vinculis,' was a saying of one of their wisest and most experienced magistrates, in a time of imminent danger; and in this country I am sometimes apt to wish, that our king had in time of war a more unlimited power than he has by our constitution; for men without merit are often preferred to commands, both in our army and navy, by the interest they or their friends have in parliament, and sometimes men who for their misconduct have deserved to be hanged, are effectually screened by the same sort of interest. When we consider this, we need not be surprised at the court of Russia insisting so strenuously upon the preservation of the present constitution in Sweden; and if we were in this respect going to make any alteration in our constitution, we might, perhaps, have the same sort of message from France, which the court of Sweden had lately from Russia. Shall we then divide, and thereby weaken, without any necessity, the executive power of our government, at a time when it is possible, if not probable, that in case of the misfortune of his majesty's death before his successor comes of age, which Heaven avert, we may be involved in a war, during the minority of our sovereign.

I say, Sir, without any necessity; for I have already shewn, that no such necessity can ever arise, except from the danger to which the infant king may be exposed by the ambition of a sole regent invested with all the power of a sovereign; and without regard to the many known and excellent qualities of the princess now to be appointed, I think this is a danger that can never be justly apprehended from a mother, especially one who in her own right can pretend no title to the crown. But supposing, that some such danger might formerly have been apprehended, surely, there is less occasion for such an apprehension now than ever was heretofore; because in former ages the estate hereditarily vested in the crown was sufficient for supporting the government in time of peace; so that a sole regent might have been for years without calling a parliament, and consequently, might have carried on ambitious designs even to their completion without any check from parliament: whereas now, even in time of peace, our government cannot be carried on for above a year without the concurrence as well as meeting of the parliament; and therefore without a corrupt or a

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packed parliament no sole regent can now carry any design to perfection, that may be prejudicial to the title of the infant king; nor can it be presumed, that the mother will ever form any such design, unless she marries again and has children by that marriage, in which case the parliament may, as soon as it happens, interpose, and by refusing the necessary annual supplies, may force her to divest herself of the whole or some part of her power, if it should be thought necessary for the safety of the nation or its infant sovereign.

Let us but recollect, Sir, the surprising success of the sole regency of the earl of Pembroke in the infancy of Henry 3, and the many misfortunes brought upon the nation by the factions in the councils of regency appointed during the minority of Richard 2, Henry 6, and Edward 6. The earl of Pembroke, in less than three years of his sole regency, not only restored his infant king to the throne, which was upon the very brink of being lost by the father, but established him on that throne, and the nation in peace and tranquillity. On the other hand, during the infancy of Richard 2, Henry 6, and Edward 6, there was never any settled tranquillity at home, nor any success abroad. I need not enlarge upon the history of any of these minorities, which is so well known; but I must observe, that if we met with misfortunes by appointing councils of regency during the minority of Richard and Henry, it was what could not be avoided; because, to have appointed a younger uncle of the infant king sole regent with sovereign power, would have been a shocking indignity to the eldest; and to have appointed the eldest, who was presumptive heir to the crown, might have proved as fatal to the infant king, as it did afterwards to Edward 5. Upon both these occasions, therefore, we were under the necessity of appointing a council of regency, and if we thereby suffered, as we did severely during the minority of Henry, we had the comfort to reflect, that necessity and not choice was the cause of our suffering. But if we should now weaken our government by dividing its executive power, and should by that means be stripped of all or most of our foreign possessions, as we were during the minority of Henry 6, the loss will be infinitely greater to the nation, and we shall with bitter remorse reflect, that without any necessity we exposed ourselves to this danger.

When I talk of foreign possessions, Sir, I hope no gentleman supposes I point at any of those dominions his majesty is possessed of in Germany. By our foreign possessions, I mean our plantations and settlements in Asia, Africa, and America, together with the important fortresses of Gibraltar and Port-Mahon, so necessary for the protection of our commerce in the Mediterranean; for from the expence the French are now putting themselves to in repairing and augmenting their marine, we may foresee, that in the very next war that happens between the two nations, they will endeavour to drive us out of all those possessions; and this they may effectuate, if we should at the time be under the government of a factious, disjointed council of regency, every one of whom, instead of protecting our possessions abroad, will think only of protecting or enlarging his power at home. If this should be the fatal consequence of our agreeing to this Bill as it now stands, I will say, that the loss sustained by the nation would be infinitely greater, than it was during the minority of Henry 6, for the plantations and settlements we are now possessed of, have contributed, and will contribute more to the riches and naval power of this nation, than the dominions we were then possessed of in France could ever have done. Indeed, it would have been impossible for us to preserve those dominions, without adding to them by conquering the whole kingdom of France; and such a conquest, instead of being an advantage to, would in time have been the ruin of this island, because our kings would have gone to reside in that kingdom, and we should have become a province of France.

For these reasons, Sir, the Bill now before us deserves a more mature deliberation than some gentlemen seem resolved it should have. In my opinion, most of its clauses should be expunged, and almost every one of the rest amended; but I shall not conclude with any motion till I hear the sentiments of other gentlemen upon the same subject.

Mr. *Charles Yorke*:

Sir; as the Bill now under consideration is designed to be, and certainly will be a precedent for all future ages, I hope the gentlemen who speak for it or against it, will leave the person thereby to be appointed regent entirely out of the question. If the present conjuncture were only to be considered: if we were to con-

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sider nothing but the character and disposition of the amiable princess now to be appointed regent, I believe no gentleman would think of laying her under any restraints or regulations: no one would hesitate a moment in agreeing to invest her not only with sovereign but with absolute power; because it would be only extending the power of a person to do good, whose nature can never allow her to do what she thinks is evil, and whose wisdom will always direct her to distinguish properly between the good and the evil. But when we are making regulations for the good government of society, we must not consider persons, but things. For this reason our ancestors chose, and have handed down to us, a limited rather than an absolute monarchy. They knew as well as we, that a wise, active and just king, might be trusted with absolute power: that the more absolute he was, the better it would be for the society; but they considered how difficult, if not impossible, it was, to refuse to a bad king those powers that had been given to a good one; and therefore they resolved not to trust a good king with powers, that a wicked one might make a bad use of.

This, Sir, is the true cause of all the restraints and limitations, which the sovereign power has by our constitution been laid under; and for the same reason a regency, during the minority or incapacity of a king, has always by our constitution been laid under still greater restraints and limitations. I shall not dispute with the hon. gentleman who spoke last, about what our constitution may be in theory; but whatever it may be in theory, I am sure it is from histories, records, and precedents, and from them alone, that we can determine what it is in practice; and from them I defy any one to shew, that a regent or protector was ever by law entrusted with a full and absolute sovereign power: I mean, as absolute a power as our sovereign is usually entrusted with. The duke of Gloucester, indeed, after the death of Edward 4, usurped a sole regency with sovereign power; but no man will contend, that his power was legal or constitutional; and the use he made of it can never, I am sure, be any encouragement for the parliament to follow that precedent. Even the earl of Pembroke, in Henry the 3d's minority, was not entrusted with the full sovereign power, though there never can be a time when absolute power may seem more necessary, than it appeared to be at that time; yet he was not trusted with the power of the great seal; and it was particularly provided, that the seal should not be put to any grants of castles during the king's minority; so that his success was more owing to his own wisdom, and to the insolence of the French, than to the extensive power that had been granted him as regent of the kingdom.

The hon. gentleman has admitted, Sir, that when the king's person, or his right to the crown, may be any way in danger from the power of the person appointed regent, his power ought to be restrained, by saddling him with a council of regency; but does not every gentleman see, that this argument can be least urged when there is most occasion for it? Can we suppose that, in the parliament by which the duke of Lancaster was appointed regent in the minority of Richard 2, it was ever made use of as an argument for not investing him with sovereign power, because his ambition might prompt him to murder the infant king and usurp the crown? No, Sir, the argument certainly made use of upon that occasion was, that it was inconsistent with our constitution to appoint a regent with sovereign power: that by our constitution we limited the power of a supposed good regent (as every man must in charity be supposed to be, till the contrary appears from his conduct) for the same reason that we limit the power of a supposed good king, because a good man is never to be trusted with any unnecessary power, that a bad man may make an ill use of.

I may repeat the same argument, Sir, with regard to the infancy of Henry 6, for when the parliament appointed the duke of Bedford regent of the kingdom, and in his absence his brother the duke of Gloucester, but restrained the power of both, so that they could not act without consent of the council of regency appointed by parliament, can we suppose, that any member of either House gave it as his reason for thus restraining their power, because the infant king would be in danger, if they did not? Must not we rather suppose, that the reason assigned was, because the appointing of a council of regency was agreeable to our constitution? And if the same reason had prevailed, in the minority of Edward 5, if the lords who appointed the duke of Gloucester protector or regent of the kingdom with sovereign power, had not been more



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guided by their resentment against the queen-mother and her relations, than by the rules of our constitution, the ruin of that royal family might have been prevented; for Henry the 7th's title to the crown was so remote and uncertain, that the people would never have supported his claim, if all good men had not conceived an antipathy to Richard 3, on account of the cruel murders he had been guilty of.

With regard to these three minorities, meaning those of Richard 2, Henry 6, and Edward 5, I must observe, Sir, that the queen-mother of each was alive at the time, and yet the nation never thought of appointing the queen mother to be regent of the kingdom, nor so much as guardian to her infant son, much less did they think of appointing her regent with sovereign power; therefore we must impute what is now proposed entirely to his majesty's wisdom and goodness, and the known virtues of that excellent princess, who is now to be appointed regent; and if it should be thought necessary to lay her regency under any restraints, it does not proceed from any jealousies we can entertain of her conduct, but from the nature of our constitution, and the dangers that might ensue from establishing a precedent for giving sovereign power to a regent, which, if once given, could never hereafter be refused, and which might in future times be attended with fatal consequences.

As to the restraints that are proposed by the Bill now before us, they are so very inconsiderable, that I wonder to hear any gentleman find fault with them, or apprehend that they can produce any faction, or any confusion in our government; for they are none but such as every wise king would chuse to lay himself under. Would any wise king chuse to make peace or war, to prorogue or dissolve parliaments, or to remove any great officer of state, or appoint any of our bishops or judges who are to hold their offices for life, without the advice of the principal men in the kingdom, and who by the posts they have worthily filled, have shewn themselves to be the most capable of giving wholesome advice to their sovereign? These are the chief restraints which the regent is to be under; and as to the council of regency, their power is merely restrictive: they have no active power; for they cannot so much as meet, except when called by the regent; and when they do meet, they can take nothing under their consideration but what is recommended to them by the regent: they can act in nothing; their resolutions will signify nothing, without her concurrence; and if they should refuse to consent to any thing, or any measure, necessary for the good of the kingdom, they are under the annual check of parliament, as all or any number of them may be removed by an address from both Houses of Parliament.

This council of regency will therefore, Sir, be rather a security for the regent, than an obstruction to any of her measures; for though by our state maxim the king can do no wrong, I doubt if that maxim can be applied to one who is appointed regent of the kingdom during the minority of the king; and therefore it is the more necessary for the regent to have the approbation and consent of the chief officers of state to every important act of her government; and to have that consent authenticated in such a manner, as to be able to make it appear, in case of any unfortunate consequence, that what she did was in pursuance of the best advice, and what was at the time thought the most proper and necessary measure for the public good.

I shall conclude, Sir, with observing, that the opposition now made to the appointing of a council of regency, and the proposition to invest the regent with sovereign power, plainly shews the wisdom of his majesty's choice, as to the person he has recommended to us for regent in case of his death before his successor attains the age of eighteen; and does great honour to the person so recommended by his majesty. As I think it highly merited, I should in this most heartily join, if I were not fully convinced, that it is absolutely inconsistent with our constitution, and that the precedent upon some future occasion might be attended with the most fatal consequences. It is this alone that makes me do violence to my own inclination, and banish, as far as possible from my thoughts, every consideration that in the least relates to the person now to be appointed regent. This is what every gentleman ought to do upon the present occasion, and if every gentleman would do so, I believe, we should differ very little about what might be the most prudent method for preserving the public tranquillity during any future minority. At least no one would propose now to do what never was done in this nation before, and what, I fancy, never will be so much as proposed to be done hereafter.

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Mr. *Nicholas Fazakerly:*

Sir; I have learned something from the hon. and learned gentleman who spoke last, which, I confess, I never before dreamed of: from him I find, that we are by the Bill now before us, to establish a regulation for all future minorities, and such a one as no future parliament shall ever depart from; whereas, I thought we were by this Bill to provide only for the next minority, in case such a misfortune should happen by his present majesty's dying before his next successor comes of age; and when I consider the words of the Bill, I cannot well help being still of this opinion. But, says the learned gentleman, what we do now will be a precedent for all future ages. Truly, Sir, whatever that gentleman may have, I have not so extraordinary an opinion of the wisdom of the present administration, or even of the present parliament, as to think, that future ages will pay such a deference to us, as never to depart from any precedent made by us, though circumstances should be afterwards quite different from what they are at present. There are so many clouds hanging over this nation at present, so many impending mischiefs, that future misfortunes will, I am afraid, give future ages too just reason to suspect the wisdom of this, and perhaps a contempt of every precedent that may be left them by us. Do not therefore let us trouble our heads so much about what future ages may do, but provide for the inconvenience we are now exposed to; and we cannot do this with any discretion, unless we consider very particularly not only the present circumstances of the nation, but the characters, qualities, and probable views of the chief persons now in being.

The hon. gentleman was pleased to say, that we cannot determine what our constitution is in practice but from history and precedent. I will aver, Sir, that if we are to determine, upon this occasion, what we are to do from precedent, we can come to no determination at all; for there are no two precedents that are the same in every point; and no wonder it should be so, because when a regency is to be appointed, the circumstances of the time must be so particularly considered, that it is impossible to suppose, that what is done at one time can be a precedent for what ought to be done at another; and if we were, upon the present occasion, to be determined by precedent, and by that alone, the person who is now so wisely and so worthily to be appointed regent, could never have been thought of, because the mother of the infant king was never during his minority regent of the kingdom, though it has several times happened, that the mother was alive when the king died. Nay, the mother was never proposed to be appointed until the reign of Henry 8, when, I believe, he did once or twice appoint his queen to be regent; but all the precedents of that reign are not, I am sure, fit to be followed; and even he, when he died, did not leave his then queen so much as one of the regency.

For this reason I must say, that it is a little arrogant in us to suppose, that our posterity will exactly and implicitly follow a precedent now made by us, when at the same time we do not follow any one precedent left us by our ancestors. But, Sir, it is ridiculous to talk of precedent in the case now before us; for as I have said before, no former precedent can be any authority for what ought to be done upon the next occasion. We are therefore in the right not to follow any former precedent, and posterity will be in the right not to follow any precedent made by us. In every such case, the true way of judging is, to lay the nature of our constitution down as the foundation, and then to consider all the particular circumstances which happen to exist at the time. When I talk of the nature of our constitution, I must beg the learned gentleman's pardon for meaning its nature in theory; for from practice there is no determining what it is; because it has been, and always must be varying, according as time and experience point out where and how it is become defective. In all governments there are two evils to be most cautiously avoided, that is, oppression and faction: when he or those who are entrusted with the executive part of the government have too much power, they are apt to oppress; when they have too little, it creates faction; and the experience of all ages and countries convinced us, that when the executive power is lodged in many hands, it produces faction, which generally ends in tyranny, unless annually or oftener changed, and this again produces continual animosities. For this reason we chose to lodge the executive power in an hereditary monarch, under such limitations as might prevent his being able to oppress: when those limitations are too strict, they put it out of his power to stem the tide of fac-

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tion; when they are too lax, they leave him a power to oppress, which his ministers are but too apt to make use of; and this is the cause of our constitution having always varied in practice, for to find out and establish a certain medium is beyond the wit of man.

From this short sketch of the true nature of our constitution it is evident, Sir, that when the executive, or what we call the royal power is divided, and put into several hands, it is a total alteration of our constitution: it is establishing, instead of a limited monarchy, an oligarchy, which Sallust places in opposition to an aristocracy, and defines it to be, when "non optimi quique sed pauci, iique pessimi gubernant." Such a government from the nature of mankind must necessarily produce faction; and, accordingly, from our own history it appears, that it has always done so. There never was a council of regency appointed in this nation, that were not in a year or two endeavouring to cut the throats of one another, by which the nation was exposed to great animosities and perturbations within, and to great losses and indignities without. Such a government ought never therefore to be appointed, except when it becomes necessary for avoiding a greater danger, and this can only be, when the person to be appointed regent is so nearly allied to the crown, that there may be some reason to fear an usurpation, which was the case in the minority both of Richard 2 and Henry 6. This country was then in such circumstances, the military power of the barons was so great, and they were upon every occasion so ready to fly to arms, that it was thought impossible for a woman to govern: besides, the nation was at both those times involved in a foreign war; for the truce with France had expired some months before the death of Edward 3, and Henry 5 was at his death in actual war with the dauphin. In these circumstances the parliament thought it necessary, it seems, to have a man for regent of the kingdom, and they could not with decency prefer any to the king's eldest uncle; but as the appointing him sole regent with sovereign power might be of dangerous consequence to the infant king, rather than expose their sovereign to such a danger, they chose to expose the nation to the danger of faction, by appointing a council of regency.

What arguments were then made use of in parliament for such a regulation, no one, Sir, can now pretend to guess; but, surely, they could not, in the first parliament of Richard 2, pretend to found it upon what our constitution was in practice; for of the only two minorities that from the Conquest to that time had happened, there was during one no council of regency at all, and during the other, though there was a council of regency appointed, they never had acted, the queen-mother having assumed to herself the sole and whole sovereign power. I am therefore apt to imagine, that both in the minority of Richard 2 and Henry 6, the members of parliament spoke their minds pretty freely, and told the king's uncles that they would not trust them with sovereign power, because of the danger the infant king might be thereby exposed to; and I am sorry to hear any gentleman in this House suggest, that a member of parliament may not express his sentiments freely upon every such occasion; for in such a case it would not be necessary to attack the character of the person to be appointed regent, it would be sufficient to say, that his great power, or his near relation to the crown, made it unsafe to put into his hands the sole and whole sovereign power.

As no such argument can now, Sir, be made use of: as there is not the least danger to be apprehended from the person now to be appointed regent, why should we alter our established form of government? Why should we expose the nation to the intrigues of faction? Why should we embarrass the regent's government, by subjecting it to the controul of a factious, perhaps a treacherous council? The regent would certainly have a council, as every sovereign has; and if we leave it to her own choice, I am persuaded, she will have an honest and a wise one, if such a one can be found in the nation. I am therefore for her having a council to consult with when she thinks it necessary; but I am not for her having a council to embarrass and perplex her administration: I am for her having a council to give her good advice when she desires it; but I am not for her having a council to send her peremptory orders. The learned gentleman told us, that this council was to meet only when she calls them, and to take into consideration only what she lays before them. Sir, I suspect the contrary, by their having a president appointed; for the office of a president is to call the council together, and to open what matters he thinks

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proper for their consideration; but were it otherwise, this council must meet very often, were it for nothing else but to prorogue or summon the parliament; and as they will probably have a great influence in parliament, I am afraid, the regent will find it difficult to prescribe to them, either the time they are to continue together, when assembled, or the subjects they are to take under their consideration.

In short, Sir, if you once establish such a number of men, irremovable, in power and authority, no one can tell what they may not do, if united: no one can describe the terrible consequences that may ensue from their disuniting. And these dangers we are to expose the nation to for no reason, for no purpose, that I can conceive, unless it be, that some gentlemen have found so much sweet from having a finger in that delicious pye, called the administration of government, that they are resolved to keep their fingers in as long as possible; for during the minority, if they continue united, they will have established themselves so firmly, that it will not be in the young king's power, for some years at least after he comes of age, to turn any one of them out, or in any respect to act contrary to the advice or rather direction of the junto; and as I think, that this would be, for the time at least, a total overthrow of our constitution, I must therefore be against it.

Mr. Speaker *Onslow:*

Sir: I do not stand up with any hopes, much less any expectation, that what I can say upon the subject now under consideration, will have an influence upon any gentleman in this House; but the Bill now before us is of such importance, and in my opinion will, in case of an emergency, which Heaven avert, introduce such an unnecessary and dangerous alteration in our constitution, that I think myself obliged to declare my dissent, in a manner more open and explicit, than by giving it a bare negative. The great honour this House has done me by continuing me so long in the Chair, laid me under an obligation, and, indeed, I thought it my indispensable duty, to enquire as narrowly as I could into the nature of our constitution, and to study what might tend most effectually to its preservation, or what might, on the contrary, most probably contribute to its dissolution. From this study I have learned, that the royal power may be limited, but that it cannot be divided; and that no attempt was ever made to divide it, but what was soon followed by confusion, which always ended in tyranny.

Sir, we had once a sole and a glorious regent; I mean the great earl of Pembroke, in the infancy of Henry 3. He might, perhaps, be laid under some additional limitations by that assembly of the barons, by whom he was so wisely chosen; but all our histories testify, that he was sole. All his actions shew that he was so; and happy would it have been for the young monarch, as well as the nation, had he lived till his pupil came of age. In the short period of three years, by his being sole regent, he brought order out of as great confusion as ever any unhappy country was exposed to; and had he lived twenty more, the young king would, from him, have learned principles and maxims very different from those that were afterwards inculcated into him, and that were the cause of all the misfortunes in which he was afterwards involved.

Let us compare this, Sir, with what happened during the future minorities: I need not mention the short minority of Edward 3, because the government of his mother was rather an usurpation than a regency; and the oppressiveness of her government, together with the insolence of her favourite Mortimer, was, perhaps, the chief reason why the parliament would not trust the mother of Richard 2, with any share in the regency, as the suspicions they entertained of the duke of Lancaster were the cause why they would not trust him with being sole regent; and to have appointed any other would have been such an indignity put upon him, as must have produced an immediate civil war, which would have been of the most dangerous consequence at a time when the nation was involved in open war with France and Spain, and the continuance of the peace with Scotland extremely precarious. In these untoward circumstances, the parliament thought themselves under an absolute necessity to aim at dividing the royal power, by appointing what may be called a council of regency, for governing the kingdom during the king's minority. What was the consequence? No one measure was pursued with unanimity and steadiness, consequently nothing resolved on was attended with any success; and the people suffered not only by foreign invasions, but by domestic insurrections.

Notwithstanding the misfortunes this

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sort of government, or rather misgovernment, by a council of regency, was attended with, yet it was made a precedent for the very next minority that happened, which was upon the death of Henry 5. Then likewise, Sir, there were several, indeed cogent reasons for not appointing a sole regent: such a regency must have been vested either in the queen-mother, or in the infant king's eldest uncle, the duke of Bedford: as to the mother, she might, with some reason, be thought incapable to manage the heavy war we were then engaged in with her brother, the dauphin of France; and besides, her affection for Owen Tudor, whom she soon after married, was probably known or suspected in England, which created a jealousy that, in case of her being appointed sole regent, Tudor would soon become a second Mortimer. These were good reasons for not vesting the sole regency in the queen mother; and as the duke of Bedford was presumptive heir of the crown, in case of the infant king's death, who was not then a year old, it was a most substantial reason for not vesting him with sovereign power; and this reason was supported not only by the late king's will, but probably by the whole interest of his brother, the duke of Gloucester.

These reasons, Sir, made a second attempt to divide the royal power almost unavoidable; and every one knows the confusion and the misfortunes it produced. I shall, as far as I can, draw a veil over the usurped regency and sovereignty of Richard 3, and come next to that regency which was appointed by the will of Henry 8, when a third attempt was made to divide the royal power, by putting the kingdom under the government of a council of regency. How long did this impracticable sort of government last? In less than a year after the king's death, the duke of Somerset usurped the sole regency with sovereign power: happy had it been for the nation, as well as the young king, had his power been legally established; because he might then have enjoyed it without jealousy, and he seems to have been a man who had no sinistrous designs; but as it was usurped, it was the occasion of his ruin, and the duke of Northumberland succeeded by the same means to the same power. He soon began to form a plot for having the crown transferred to one of his sons, and was not a little suspected of having been the cause of the untimely death of that hopeful prince, Edward 6, which made way for queen Mary's ascending the throne, and putting an end to the life, as well as the ambitious projects, of the duke of Northumberland.

These observations upon our history, Sir, confirm the maxim I have laid down, that the sovereign, that is to say, the executive power of our government, may be limited, but it cannot be divided. Such a division always has produced confusion; from the nature of mankind it always must produce confusion; for most men, from their nature, will grasp at power, and can never be satisfied with what they have: even the most absolute monarch of the most extensive empire is not satisfied with what he has, but endeavours to increase his power by enlarging his empire; and should he conquer the world, according to the vulgar saying of Alexander, he would sit down and weep, that there was not another world for him to conquer. Can we then doubt of confusion being the consequence of the division of the royal power intended by this Bill? Can we dispute its being a total alteration of our constitution? Sir, it is plainly setting up an oligarchy, instead of our limited monarchy; and in this oligarchy it is, I think, evident, that the person appointed regent will have little or no share: she can have nothing but a name; for, in my opinion, there is nothing more certain than that the members of the council of regency, or a majority of them, will unite against her, especially as you are by the Bill to provide a head for that majority; and as she cannot govern without them, she must submit to be governed by them; so that when we talk of the power she is to have of naming to this or that post or office, we really deceive ourselves: the patent or commission must indeed be in her name, but she must grant it to the person prescribed to her by the majority of the council of regency: if she does not, confusion must ensue, which will of course end in vesting her, or more probably the head of that majority, not only with sovereign but with absolute power.

In short, Sir, this Bill seems calculated for establishing a power that I confess myself afraid of, as much as I can be of any power beneath the divine. I never could, I never shall flatter, especially as to what I say in this House; nor have I any occasion to do so: I have nothing to ask, and consequently, whilst our constitution is preserved, I have nothing to fear; but should arbitrary power be once in any

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shape established in this kingdom, the most innocent, the most meritorious would have the most to fear. This is what every good man ought, what every wise one will guard against; and the best way to guard against it, is never upon any emergency to depart from our ancient constitution, or to introduce any new form of government, if it can possibly be avoided. Is this Bill framed upon any such maxim? Are we not thereby to set up ten or fourteen kings instead of one? For the regent I do not reckon in the number, because, I am sure, she must be a mere cypher. Can such a government subsist for any time? Sir, from experience we may foresee, that while it does subsist there will be nothing but contention, and that some one of these new created kings must soon usurp the whole power. Can an usurpation be supported by any thing but absolute power? Was there ever such a power that did not soon grow tyrannical, with respect to all those that would not blindly and basely join in its support?

Were we now, Sir, involved in such a dilemma as the nation was upon the death of Edward 3, or Henry 5, there might be some excuse for our introducing such a new form of government: but can any one now say, that a woman is not capable to govern this nation, either in time of war, or of peace? Can the least objection be made against the sole regency of the person, who by this Bill is to have only the name? We are therefore now going to place our country upon the verge of a precipice, from whence the least touch may tumble it headlong into confusion and civil wars, not only without any necessity, but at a time when the legislature never had a better opportunity, or more cause to avoid the danger. I have hitherto never ceased to pray for the continuance of his majesty's most precious life; but should this Bill, in its present form, pass into a law, I should pray with more ardour than ever before, and I do now most sincerely pray, that his majesty may live till long after his next successor is come of age; for this will be the only means, by which we can avoid those dangers, we are by this Bill going to expose ourselves to.

I say the only means, Sir, because I put very little trust in that which, it is said, may protect the regent and the nation against a factious majority in the council of regency. It does not belong to me, to prophesy any ill of parliaments; but whatever may happen in time to come, we must from history confess, that in times past parliaments have been now and then under a very bad sort of influence; therefore it is not impossible to suppose, that a factious majority in the council of regency may be supported by a factious majority in one or other of the Houses of Parliament: and if this should happen, I should be glad to know how the regent could dissolve such a factious combination against her in the council of regency; for by this Bill it is provided, that no one of them shall be removed without the consent of a majority, unless upon an Address from "both" Houses of Parliament; and it is likewise provided, that she shall not prorogue or dissolve the parliament, "or create any one a peer of the realm," without the consent of a majority of this council of regency.

Under such restrictions, Sir, as ambition always aims at the overthrow of its superiors, I think it is highly probable, that a combination will be formed against the regent in this council of regency; and should that combination so far succeed, as to gain a majority not only in the council of regency, but also in one of the Houses of Parliament, they will compel the regent to remove from the council of regency every one that refuses to join in their combination; the certain consequence of which will be, that the regent will from that moment become a mere cypher in all affairs of government; and whoever is at the head of that combination will invest himself first with sovereign, and soon after with absolute power.

This is an attempt, Sir, that will, in my opinion, without the least doubt, be made The very attempt will throw us into confusion; and should it succeed, it may prove fatal to our young sovereign, perhaps to the illustrious family now upon our throne. Therefore, I hope, this project of a council of regency will be laid aside, and that we shall content ourselves, in case it should be thought necessary, with laying the regent under a few limitations, particularly with regard to peace and war, or treaties with foreign states; for I do not think it would be wrong to provide, that even our sovereign should not declare war, or finally conclude any foreign treaty, without the consent of parliament.

These, Sir, are my sentiments upon the important subject now before us. From what I have said I do not so much as expect success; but one thing I am sure



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of; I shall have the pleasure of reflecting that I have done my duty, in warning you of the misfortunes to which, I think, you are going to expose your country.

Mr. Attorney General *Ryder:*

Sir; I am always sorry when I find myself of a different opinion from the hon. gentleman who spoke last, and I never was more so than upon the present occasion, because I think the Bill now before us of such importance, that I cannot yield in complaisance to his opinion, as I would otherwise willingly do, though not fully convinced by his reasons. As I know his opinion will always have great weight in this House, though his modesty does not allow him to conceive so, I therefore think myself the more obliged to give my reasons for differing from him in opinion, and must begin with observing, that a minority is a misfortune so necessarily incident to our constitution, that it ought, as far as possible, to be provided against by a general standing law; and that though no general regulation be established for this purpose, yet whatever is done at one time, will be a precedent, that will be strongly insisted on, and will have great weight at another.

I shall freely grant, Sir, that a sole regency, with sovereign power, is more consonant to our constitution, and less exposed to faction, than a regent limited and restrained to act in all matters of great importance, by the advice and with the consent of a council of regency; but will any gentleman say, that the appointing of a sole regent with sovereign power, ought to be laid down as a general rule to be observed in every case of a minority? A minority, Sir, is, and must always be a misfortune to the nation, happen when it will; for if upon such an occasion we appoint a regent with a council of regency, we are exposed to the danger of faction; if we appoint a sole regent, with sovereign power, we are exposed to the danger of an usurpation. It is impossible for us to avoid exposing ourselves to one or other of these dangers; therefore the only question is, which is the least danger, which we should rather chuse to expose ourselves to; and this question is not to be determined by any particular case, or by the qualities or circumstances of the person at any time to be appointed regent; for if we should, upon one occasion, appoint a sole regent with sovereign power, we could not upon the next emergency say, We will not now follow that precedent, because the person to be appointed is known to have such qualities, and to be in such circumstances, that by appointing him sole regent with sovereign power, we shall expose ourselves to the danger of an usurpation: such an argument would necessarily imply such a reflection, that no man could make use of it; therefore the question must be made general, whether it should be laid down as a general rule upon every minority, that some person ought to be appointed sole regent with sovereign power, or that a council of regency ought to be established, and the regent, whoever may be appointed, confined not to act in some cases of importance without the concurrence of a majority of that council.

Upon this general question, Sir, I think it is very easy to determine on which side true wisdom is to be found; for if usurpation be a danger much more terrible than faction, surely it is most prudent to lay it down as a general rule, that upon every minority a council of regency ought to be established, and the regent confined to act in many cases by their advice. This, in my opinion, is the most prudent; and my opinion is confirmed by the invariable practice of our ancestors ever since the Conquest. I say, invariable, Sir; for as to the regency of the earl of Pembroke, the nation was, at the time of his appointment, in circumstances so particularly unfortunate and dangerous, that the most prudent general rule could not at that time be observed; but the internal tranquillity of the nation being in a great measure restored before his death, the great men of those days took care that the government of the kingdom, during the rest of that minority, should not be vested in any one single person; and, during every minority since that time, a council of regency was appointed, except the minority of Edward 5, when his uncle Richard, afterwards Richard 3, usurped a sole regency with sovereign power, and furnished posterity with a glaring proof of the danger of trusting any man with such a power.

Now, Sir, as to the misfortunes brought upon the nation by factions in our councils of regency, I really wonder to hear them so much insisted on; and to shew that I have some cause for my wonder, I must beg leave to touch a little upon the history of every one of them. In the minority of Edward 3, it is plain, that if any misfortune was brought upon the nation,

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it was not owing to any faction in the council of regency then appointed by parliament: for they acted so tamely that they did whatever the queen desired, and left the whole government both of the king and kingdom to her and her favourite Mortimer. Again in the minority of Richard 2, there appears not to have been any faction, or any division, in the council of regency: the parliament, indeed, shewed a jealousy of the duke of Lancaster, by joining his two brothers with him in the regency, and putting the money they granted into the hands of two aldermen of London: but the co-regents as well as the council of regency, were so far from fomenting any faction against him, that they prevailed with the two aldermen to put the money into his hands: and it is certain, that neither the invasions made by the French upon our coast, nor the insurrections that happened, were occasioned by any opposition or faction in the council of regency; nay, though the royal power was then plainly divided, by appointing three regents instead of one, it does not appear, that any confusion or misfortune from thence ensued; for the regents as well as the council of regency, concurred in all public measures, so far as appears, with a continual cordiality.

Then, Sir, in the minority of Henry 6, I shall admit that there was then a division in the council of regency: but that division merits, I think, the name rather of a just and wise opposition than of a faction; for if the English, or rather the king of England's party in France, would not support themselves and the king, to whom they had sworn allegiance, it was not reasonable that this kingdom should be entirely exhausted, for the sake of establishing our king upon the throne of France, which would have been the greatest misfortune that could have happened to us; and the party formed in the council of regency against the duke of Gloucester, proceeded more probably from the violence of his temper, than from any factious spirit in the members of that council. To which I must add, that the losses and misfortunes which happened in France were not owing to any faction in the council of regency, but to the selfish views of the king's two uncles: for the marriage of the duke of Gloucester with Jaquelina of Hainault, and his attacking, in consequence thereof, the duke of Brabant, first made the duke of Burgundy grow cool to the English interest in France, and at the same time prevented the necessary succours being sent for pushing the conquest of that kingdom: so that the bishop of Winchester's opposition to this project of the duke of Gloucester, was not a factious, but a very just and laudable opposition; and such another project of the duke of Bedford completed the defection of the duke of Burgundy, by which I mean the former marrying Jaquelina of Luxemburgh, without the advice or consent of the latter, notwithstanding her being the daughter of one of his vassals.

These two projects, Sir, were the true cause of all the misfortunes we at that time met with in France; and these misfortunes, together with the death of the duke of Bedford, made every man in England despair of being able to establish our king upon the throne of France, which furnished the wise men in England with the pretence they had long wanted, for putting an end to that pernicious, though popular project; from all which, I think I may justly conclude, that England no way suffered by the appointment of a council of regency in the minority of Henry 6. And as to the next minority, which was that of Edward 5, I believe every man will join with me in saying, that it would have been happy for that prince, had a council of regency been appointed by act of parliament, before the death of his father.

I come, lastly, Sir, to the minority of Edward 6, during which his father had by his will appointed a most impracticable sort of government. A council of regency consisting of sixteen, without any regent, without any preeminence, and these sixteen again not to act without the advice of a council of twelve, no one of whom they could remove, was such a form of government as it was impossible to carry into execution. Some alteration was therefore absolutely necessary; and the misfortune was, that no alteration could be made without raising factions and divisions among them; for as no one among them was by birth, or even by services, entitled to a preference, the setting up of any one of them above the rest, could not fail of raising jealousy and envy; and as they were of different religions, and some on both sides bigotted to the religion they professed, this could not miss of being another source for faction and division. The misfortunes of that minority, therefore, are not to be ascribed to the appointment of a council of regency, but to the not appointing a regent, and to the bad c[illegible]



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made of the council of regency. To which I must add, that though the parliament shewed a most shameful complaisance to the imperious temper of Henry 8, and the people were forced to submit, yet very few had any great opinion of his wisdom; so that the persons named regents, by his last will, could derive no great authority among the people from that nomination: and when the regulation he had made came to be publicly known, I am sure it could add nothing to his character for wisdom; for the impracticability of it could not but be observed by every man of common sense in the kingdom.

After these remarks, Sir, upon the several councils of regency that have been appointed in this nation, I hope the fears that have been expressed of such an appointment being always liable to factions and divisions will vanish; for I have clearly shewn that from experience we have no real ground for any such apprehensions: but from experience we have just reason to conclude, that the appointing of a sole regent, with sovereign power, will expose us to the danger of an usurpation; and as this danger is not only in itself more terrible, but the apprehension of it better founded, than the danger of faction, I think it is evidently more prudent to lay it down as a general rule, that during every minority a regent with a council of regency should be appointed, than to give any authority, by precedent, for laying it down as a rule, that a sole regent, with sovereign authority, may sometimes be appointed; for if this rule should be laid down, whatever it may be in theory, it will not be possible in practice to make the proper distinction, when it ought to be observed, and when it ought not. We may talk of sometimes, but if a sole regent with sovereign power should be once appointed, I am persuaded, it will always with success be insisted on, till some regent, like Richard 3, has convinced us, when it is too late, of the danger.

If I were to look no farther than the present conjuncture, Sir, I should most readily agree to appointing that excellent princess named in the Bill sole regent with sovereign power; but when I consider, that what we do now, will be an insurmountable rule for doing the same thing upon the next occasion, and so upon every future occasion, I am very sure, that she has too much wisdom not to excuse our refusing to make her a compliment at the apparent risk of some one of her posterity; therefore I shall, without the least apprehension of incurring her displeasure, give my vote for passing this Bill into a law, without any material amendment or alteration.

Lord *Strange*;

Sir: the hon. and learned gentleman who spoke last, was pleased to tell us, that he would give his reasons for differing in opinion from the hon. gentleman who spoke before him; but I think he gave as strong a reason as can be urged for not differing from that hon. gentleman's opinion. He told us, and, indeed, it is what every gentleman must allow, that a sole regency, with sovereign power, is more consonant to our constitution, and less exposed to faction, than a regent bridled by a council of regency: but, said he, the appointing of a sole regent, with sovereign power, may sometimes expose us to the danger of an usurpation, and therefore it cannot be laid down as a general rule, that during every minority the regent should be invested with sovereign power. In this I agree with him; but I will say, that it may and ought to be laid down as a general rule, that when the person to be appointed regent is one from whom no danger of an usurpation can be apprehended, such a regent ought to be invested with sovereign power; and I found this assertion upon what the learned gentleman was pleased to grant, that such a regency is more consonant to our constitution, and less exposed to faction, than a regency bridled by a council.

When faction, Sir, is to be apprehended on one side, and usurpation on the other, I shall agree with the learned gentleman, that it would be more prudent to expose ourselves to the danger of faction than to that of an usurpation: but when faction is most justly to be apprehended on one side, and no one possible danger to be apprehended on the other, will any one say, that it would be prudent in us to expose ourselves to the danger of faction? There is no possibility of answering or waving this argument, but by insisting, that if we now appoint a sole regent, with sovereign power, it will be an insurmountable precedent, and unalterable rule, for every future minority. This, Sir, is so inconsistent with common sense, that I am surprised to hear it so much insisted on. We appoint a person regent whose interest it is, who by natural affection must be led, to preserve the life of the infant king; and

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for this reason we invest that regent with sovereign power, in order to prevent our being exposed to the danger of faction; therefore we ought to invest a regent afterwards appointed with sovereign power, whose interest it is, who by ambition may be led to take away the life of the infant king, and usurp the crown. Is there any common sense in this inference? Is there a man in the kingdom who would be governed by such argumentation? Can we suppose any future generation so abandoned, or so pusillanimous, that no man in parliament would dare to say to the person then to be appointed regent, Sir, I have the greatest opinion of your justice and moderation, but it has always been an established maxim in this kingdom, rather to expose ourselves to the danger of faction, than to that of an usurpation; this maxim I cannot depart from; and upon this maxim I cannot agree to invest you with sovereign power.

As the advocates for this Bill are so fond of general maxims or rules, I shall admit, Sir, that this is a general rule which ought always to be observed, as often as the case happens. I shall admit, that when the person to be appointed regent, is such a one as from his rank and circumstances may hope, and by his ambition may be induced, to usurp the crown, he ought not to be invested with the whole of the sovereign power; but even in this case I cannot admit, that a council of regency ought to be appointed, because in our present circumstances there must be every year a session of parliament; and with proper limitations in the Regency Bill, his power may afterwards be circumscribed sufficiently by parliament. It is by parliament, Sir, that the limitations upon the crown are enforced, and the privileges of the people preserved; and the parliament is the most proper and the only constitutional council for enforcing any additional restraints, that may be thought necessary to be laid upon any future regent, from whom a usurpation may be apprehended: we have, therefore, now not the least reason to think of appointing a council of regency in any case whatsoever, and the strongest reasons against appointing such a council, when the person to be appointed regent is bound both by interest and natural affection to preserve the life of the infant king, and the tranquillity of the kingdom. In such a case, to appoint a council of regency, or to lay such a regent under any new restraints, is really doing all we can to put it out of the power of such a regent to perform what her interest, her natural affection, and her duty must incline her to; for neither the life or right of the infant king can be endangered, nor the tranquillity of the nation disturbed, but by a faction formed against such a regent: by appointing a council of regency we lay a foundation for such a faction: by laying her under restraints we lessen her power to prevent, or stop the growth of such a faction.

Sir, as I think myself beneath the resentment of the great and mighty amongst us, I may speak the more freely, and my duty as a member of this House obliges me to do so: I will therefore say, that the reasons I have urged against appointing a council of regency, or restraining the power of the regent upon such an occasion as the present, were never, nor ever can be more forcible than they are at this present time. I need not fully explain myself upon this head, because it may be so easily guessed at; but we have heard of resignations, we have heard of combinations to resign, in order to force the sovereign into the measures of his servants, whom he could dismiss when he pleased: if such things could be done under a sovereign, notwithstanding his power, notwithstanding the dignity of his character and the high respect due to his person, what may we not expect under a regent confined to act by the advice of servants, whom she cannot remove? Even as to the persons by this Bill to be appointed our governors for a term of years, we know that the king himself has never been able to get them to draw very cordially together; what divisions, what factions, then, may we not expect will arise under a regent, if the wheels of government must come to a full stop, unless they can be prevailed on to draw cordially together? Ministers, we know, are apt to oppose the projects of one another: and it is not the first time that one minister has found means to render the project of another abortive, at the risk of the ruin of his country: this they have done, even when they knew they could be removed without a moment's warning: will they not be more apt to do so, when they know they cannot be removed for a term of years?

These, Sir, are dreadful dangers, and these dangers we are to expose ourselves to under a pretended apprehension, lest what we do now, may be a precedent for



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doing the same thing at some future conjuncture, when our circumstances are entirely different. Was there ever a more chimerical apprehension? It is now above 200 years since the last minority happened, and it may be as long before another happens, or may be like to happen; can we suppose, that 200 years hence they will think themselves bound to do what is now done, even though the circumstances should be the same, much less, should the circumstances be entirely different? Do not our histories inform us, that what was done in this respect at one time, was never exactly followed at another, and that we are now about to do what was never done before? The first regency appointed during a minority was that of the earl of Pembroke, which was a sole regency, with very little, if any thing, less than sovereign power: and though that lasted not three years, and was a most glorious regency, yet they did not at that time exactly follow the precedent: they appointed, it is true, the bishop of Winchester sole regent, but they bridled his power by appointing a chief justiciary whom he could not remove; and the disputes between these two had like to have thrown the nation into confusion. The next minority, which was a minority made by usurpation and murder, was that of Edward 3, and then the parliament was so far from following the former precedent, that they appointed a council of regency without any regent. In the third minority, meaning that of Richard 2, three joint regents were appointed, with a council of regency; and this precedent was again departed from in the next minority, that of Henry 6, when two protectors with a council of regency were appointed, but the two protectors were not joint but separate, as one of them was to act only in the absence of the other. In the minority of Edward 5, no regency at all was legally appointed; and in the minority of Edward 6, a new model of government was made, quite different from any of the former; for a council of regency was appointed without any regent, and that council of regency subjected to the advice, that is to say, the government of another council.

Thus, Sir, every precedent has in time past been different from the former, and it will probably be so in time to come. Nay, I think it must be so; for in every future minority, the particular circumstances of the nation, and the particular characters as well as condition of the chief persons then in being, must be considered; therefore nothing can be more absurd than to say, that a general rule ought to, or can in such cases be established. I shall grant, that in most of our past minorities, a council of regency was appointed; and it was then necessary, as often as an usurpation was to be apprehended; because annual parliaments were not then usual or necessary; but as they are now absolutely necessary, a few new limitations upon the regent, or an annual regency, may be sufficient, without a council of regency, even when there is the greatest danger of an usurpation; for that a council of regency will create faction, and that faction, by weakening our government, is productive of many misfortunes, seems to me so certain from the nature of things, that I shall not enter into an altercation with the learned gentleman, whether our misfortunes during the minorities of Richard 2, and Henry 6, proceeded from the factions in our councils of regency, or from some other cause. That there were other causes I do not doubt, but what was the principal cause, it is not now possible to determine. One thing we are sure of, that the nation did at both those times meet with very signal misfortunes, and this ought to be a caution to us, not to set up again any such sort of government, if it can possibly be avoided.

But, Sir, by this Bill we are not only going to establish such a sort of government, but we are going to make it unalterable, even though it should be found to be attended with faction and confusion; for by a clause in this Bill it is proposed to be enacted, That whosoever shall advise, promote, or assist in any matter or thing to be passed or done, for setting aside, changing or varying the method of government settled by this act, shall incur the penalties of premunire. If this clause should be passed into a law, I appeal to gentlemen, whether it will not be very dangerous, if not impossible, to attempt any amendment or alteration of this law even by parliament; for every one knows, that it is scarcely possible to expect success in any motion or proposition to either House of Parliament without a previous concert; and every one assisting in such a previous concert will thereby incur the penalties of premunire: nay, if any member of either House should make a motion or proposition in parliament for altering or amending this law, he will *ipso facto* incur the penalties of premunire, and will

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certainly be made to suffer them, should his motion or proposition be rejected.

Sir, I have often heard parliaments called, the wisdom of the British nation; but, I believe no preceding parliament ever assumed the character of such infallibility; and I cannot think we have any greater reason than our predecessors to assume that character; for, I believe we have hardly passed one act, since we had a being, but what was found to stand in need of some alteration, amendment, or explanation, before the very next session. Why, then, should we assume such a character upon this occasion? Why should we suppose, that this act, if it should ever take place, may not be found to want some alteration? If it should, he will be a bold undertaker, that shall advise or concur in any such attempt, however necessary it may appear; because, should the attempt be defeated, as the most reasonable may be, he becomes liable to the penalties of being put out of the king's protection, and of forfeiting his lands, tenements, goods, and chattels. Therefore, Sir, if no other amendment should be agreed to, I hope, that when this Clause comes to be considered in the committee, the projectors of this Bill will give up their pretence to infallibility, and admit of the word, "lawfully," being inserted in this Clause by way of amendment.

Mr. Solicitor General *Murray:*

Sir; from the whole of this debate I find gentlemen do not enough consider, that the necessity of such a Bill as this proceeds from a most glaring, and indeed a most tremendous defect in our constitution: for with respect to the sovereign, the law acknowledges no such thing as a minority: a child of two or three days old may by our constitution come to be our king or queen, and the moment the father dies, that child is by law invested with the whole sovereign or executive power of the government; so that whoever gets possession of the person of that child, whether by fair or forcible means, becomes of course possessed of the government, and all the prerogatives belonging to the sovereign. By this defect it was that Richard duke of Gloucester, afterwards Richard 3, got possession of the sovereign power, and by this he was enabled to perpetrate the many murders and other heinous crimes he was guilty of. From this defect, Sir, every gentleman may see, that upon every minority that happens, confusion and civil wars must probably arise, if not prevented by a proper law passed during the life of the preceding sovereign: nor can this danger be prevented by the law we now have, by which it is enacted, That upon the demise of the sovereign, the parliament shall immediately meet, sit, and act, during the term of six months; because in that act there is this condition, Unless the same shall be sooner prorogued or dissolved by such person who shall be next heir to the crown; and this without distinction, whether the next heir shall be a person of full age, or an infant of three days old: therefore when the next heir happens to be an infant, those who get possession of his person may prevent the parliament from acting, by proroguing or dissolving it as soon as it has met; and as they are not obliged by law to call another, they may fall upon ways and means, as Richard 3 did, to support their government, till they have concerted proper methods for getting such a parliament chosen, as will approve of all they have done, or propose to be done.

As many little defects in our constitution have been removed since his majesty's happy accession to the throne, so his majesty from his wisdom and goodness intended by the message he sent us upon this occasion, to get this great and tremendous defect removed, by having such a regulation now made as may be a precedent fit to be followed by all future generations; and as the other House has concurred, so I hope, this House will concur with his majesty in this most wise and most gracious intention; for that some new regulation for preventing the unlawful seizure and unjust detainer of the person of an infant sovereign is necessary, I believe, no gentleman will deny; and as the present design is not only to provide against the present eventual misfortune, which Heaven avert, but against all future misfortunes of the like nature, both the circumstances and characters of the persons now in being, or that may hereafter happen to exist, must be left entirely out of the question. The amiable character of the princess now to be appointed regent, might induce us to put her under less restraints, and the great character of the person now to be put at the head of the council of regency, might induce us to give him more power; but to put the regent under less restraints, or to give the head of the council of regency more power, might upon some future oc-

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casion be attended with the most pernicious consequence: whereas, the restraints upon the former, and the powers given to the latter, are by this Bill so well adjusted, that let the persons hereafter to be appointed be who they will, neither the restraints nor the powers, if the same with those in this Bill, can ever, in my opinion, be the cause of any mischief.

Gentlemen may fancy what they will, Sir, of the wisdom and magnanimity of future parliaments, but from the experience of times past, we must conclude, that when a person of great influence, a prince perhaps who is presumptive heir to the crown, has a precedent in his favour, it will be very difficult to get a majority in parliament to depart from that precedent, especially should it be a precedent that has been attended with great happiness, and perhaps great glory to the nation, as the precedent would probably be, should we now appoint the princess named in the Bill, to be sole regent with sovereign power. I have so firm, so well grounded an opinion of the many good qualities of that princess, that I am convinced, our investing her with sovereign power, would be attended with happiness, and perhaps glory to the nation; but for this very reason I am against it, because it would add such weight to the precedent, that it would be impossible, upon any future occasion, to depart from it, however strong and evident the reasons might then be for a departure; and as this might be of the most dangerous consequence to some one of her posterity, perhaps to all her posterity, it prevents my shewing that regard which is due to her extraordinary endowments.

I may, perhaps, be thought to have too great a regard to precedents, as some of my profession certainly have, but this I will say, Sir, that in all questions in politics as well as law, precedents ought to be duly considered, and never departed from without very urgent cause. Our regulations of government during minorities have not, it is true, been all exactly the same: but we never yet gave a regent or protector the whole of the sovereign power, except Richard duke of Gloucester, who may be said rather to have taken than to have gotten it; and a council of regency of some kind or other has always been appointed, except in the minority of Henry 3, when the earl of Pembroke, *flagrante bello civili*, was appointed sole regent under some restrictions; but that surely is a precedent we have no reason to follow in a time of profound tranquillity, and when there is no such thing, nor any appearance of such a thing as a hostile army in the kingdom.

Then as to faction, Sir, I shall grant, that all limited governments are liable to faction, and the more they are limited, the more they are liable to that political distemper; therefore I shall admit, that a government by a regent and council of regency is more liable to faction, than a government by a sole regent with sovereign power; but if we examine which has produced the most signal mischiefs, we must conclude, that the balance is greatly on the side of the latter. It may be said, though, in my opinion, not justly, that by faction in the minority of Henry 6, we lost the kingdom of France, which, I believe, no man will now say, was a national misfortune; but the sole regency of Richard duke of Gloucester, without the check of a council of regency, produced the extirpation, I may say, of one royal family, and the establishment of another, which otherwise would never probably have mounted the throne; and this part of our history I must particularly recommend to the consideration of those, who are sincerely attached to our present royal family, and yet are for making a precedent that, in some future time, may be the cause of such another usurpation.

As to our parliament being a sufficient check upon a sole regent invested with sovereign power, I wonder to hear any gentleman insist upon it, that has ever read the history of Richard 3. Did ever any man in power act more unjustly, more tyrannically, more cruelly than that prince did? and yet in less than a twelvemonth after his brother's death, he got a parliament chosen that approved, tacitly, if not expressly, of every thing he had done, and confirmed his usurpation, though at the time of his brother's death, there were no less than nine persons that had a nearer right to the crown than he, that is to say, five daughters and two sons of the king his eldest brother, and a son and daughter of his elder brother, the duke of Clarence. Thus, Sir, the elections and the parliament were governed at that time, and can we suppose that in future times the people will have more virtue, or that a prince possessed of all the power, and all the revenues now at the disposal of the crown, will have less influence than Richard 3 had?

This example alone, Sir, must clearly shew us, how dangerous it is to trust any

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one subject with the whole of the sovereign power; and yet, when we fall under the misfortune of a minority, we must either trust some one subject with that power, or we must appoint a council of regency, as a check to the exercise of that power. This is not dividing the sovereign power: it is only appointing an administration, and taking from an infant king the power which a king at full age has, of appointing and changing the administration at pleasure: for even a king at full age cannot legally act in any state affairs, without the concurrence of some one or more of his ministers; but then he has the power, if the minister refuses to concur, to turn him out, and appoint another in his stead, which an infant king, or regent, with a council of regency, appointed by parliament, cannot do; and in my opinion, it must always be of the most dangerous consequence to give either of them such an unlimited power in this respect, as a king at full age is by our constitution invested with; for power produces such an alteration in the sentiments and behaviour of mankind, that from the conduct of a person without power, we can make no judgment of what he or she will be when invested with sovereign power.

For this reason, Sir, if we consider the Bill now before us as a precedent, which will be followed upon every future occasion, and in this light it ought certainly to be considered, we must conclude, that the regent thereby appointed has as much power as ever ought, or can safely be given to a regent. She has in every thing a negative voice; for nothing can be done without her concurrence; and except a few of the chief officers of state, she has the sole power of disposing of all places and employments under the government, that are not granted for life. In short, she has the whole of the sovereign power, except in things where no remedy could be applied, even when the king comes of age, should it then appear that she had done amiss. This is the reason why she is not by her sole authority to appoint bishops or judges, because they have their places for life; whereas she may by her sole power appoint much greater officers, such as the lord lieutenant of Ireland, the general of our army, the governors of our plantations, and many others I could name; and as no great officer, not even any one of those that are to be of the council of regency, can be appointed without the concurrence of the regent, it will be impossible for any one of the council of regency, or for all of them together, to form a faction against the regent, or to acquire such an influence in either House of Parliament, as may prevent the removal of such factious counsellors, by an address of parliament. Nay, the members of the council of regency can never assemble or meet as a council of regency, unless when called so to do by the regent, nor can any matter or thing be brought under their consideration, but such as may be propounded to them by the regent; so that as on the one hand, all possible care has been taken, by this Bill, to prevent its being in the power of the regent to do any thing that may be prejudicial to the nation or the infant king, which, upon the present occasion, I shall most readily grant, was quite unnecessary; so on the other, the utmost care has been taken to prevent its being in the power of the council of regency to form themselves into a faction against the regent.

The Bill now under our consideration is therefore, in my opinion, Sir, a Bill as wise and as cautiously framed, as any Bill that was ever brought into parliament; and yet the framers of it are far from assuming to themselves any character of infallibility, or intending that this parliament should assume any such character, as the noble lord was pleased to insinuate. There is, indeed, a clause for preventing the regent's doing any thing for setting aside or altering the method of government settled by this Bill, and for inflicting the penalties of præmunire upon all those that shall be assisting therein; but can this relate to any thing that may be done, or proposed to be done by parliament? Surely, one act of parliament may be lawfully altered or repealed by a subsequent; and every other method of altering or abrogating what has been established by act of parliament, must be unlawful: the word 'lawfully' must therefore in this clause be understood; but when we come to that clause, in this committee, if the noble lord will please, for the more security, to propose inserting that word by way of amendment, I can assure him I shall make no objection to it.

There is, in my opinion, Sir, as little necessity for an amendment that has been mentioned to another clause in this Bill, meaning that for the continuance of the parliament for three years after the accession of the minor successor; for as the act of the 7th and 8th of king William for

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continuing the parliament upon the demise of the king, is not by this Bill repealed or altered, if his present majesty should die, after the dissolution of one parliament and before the meeting of another, the preceding parliament will immediately convene by virtue of that act, and will be the parliament that by this Bill, when passed into a law, is to continue for three years. However, if gentlemen insist upon this amendment, when we come to that clause, I can at present see no reason why it should not be altered, so as to obviate all their scruples upon this head.

To conclude, Sir, I shall be far from being against such amendments as may be thought proper to any clause in the Bill now before us; but the passing of this Bill in some shape or other I must think absolutely necessary, in order to remove that defect in our constitution, which subjects the nation to the government of whoever can, by fair or foul means, get possession of the person of a minor or infant king, which defect has often exposed us to great dangers, and once was the cause of the destruction not only of the minor king, but of the royal family of which he was descended. And as I think it will in general be necessary, upon every future occasion, though not upon the present, to lay the regent under restraints, therefore, lest what we do now should be made a precedent, when it should not, I shall be for agreeing to all the restraints contained in this Bill; and consequently for retaining the words objected to by the hon. gentleman who spoke first upon this subject.

Sir *John Barnard:*

Sir; in any matter of law, I should be very ready to submit to the opinion of the two learned gentlemen, who spoke last in favour of this Bill; but in matters that relate chiefly to our constitution, which, not only as a free citizen, but as a member of this House, I have thought myself bound to study, I hope I may be allowed, without the imputation of presumption, to differ from them; and indeed, I totally differ from them, almost in every thing they have said upon this occasion; for I neither think this Bill, or any such Bill, necessary at present, nor do I think there is such a defect in our constitution as the learned gentleman who spoke last was pleased to frighten us with: and if there be any little defect in our constitution, with respect to minorities, I do not think this Bill, or any such Bill, at all proper for curing it.

As what I have said, may to some gentlemen seem surprising, I must beg leave to give my reasons for these my surprising opinions. With respect to the minority of our king, Sir, we must distinguish between what was our constitution before a House of Commons was established, and what it has been since the establishment of this House. Before the Commons came regularly to have a share in the legislative part of our government, the whole of it was lodged in the king and the great barons or peers; and these last have not only before, but ever since been deemed the hereditary counsellors of the crown. Thus our constitution stood from the time of the Conquest to the reign of Edward 1; for what it was in the time of the Saxons, I shall not now take the pains to enquire; and from this constitution it is evident, that when a minority happened, the government did not devolve upon whoever could get possession of the infant king, but upon the great barons, or such as they should appoint to exercise the government during the minority of the king, and they alone had a right to determine when that minority was or should be at an end; all which is clearly manifested from the history of the reign of Henry 3, for the earl of Pembroke was established regent by an assembly of the barons, immediately after the death of king John: upon the earl's death another regency was immediately established by the same authority; and though the young king was, at the age of 16, declared by the Pope's bull to be of full age, and empowered to take the government upon him, notwithstanding the great authority of the popes at that time, the barons would not admit of it, nor allow him to take the government into his own hands; and yet afterwards they declared him of full age, though he was but in his 20th year, and consequently not arrived at what was then deemed full age by the common law of the kingdom.

This, I say, Sir, was our constitution before the House of Commons was established; but after our parliaments came to be regularly constituted, and to consist of the representatives of the Commons, as well as the great barons, our constitution with respect to minorities was altered. Upon the death of the king, leaving his successor a minor, the immediate government of the kingdom devolved, as before, upon the great barons or peers, by virtue of that hereditary right they have, of being the king's counsellors, and they lodged it

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in such hands as they thought proper; but then the regulation made by them was not final or absolute: it lasted only until a parliament could be assembled; and by that parliament it was to be confirmed or altered. Therefore I cannot admit, Sir, that with respect to minorities, there was any such terrible defect in our constitution, from the Conquest down to the 8th year of William 3, when a new alteration was made in our constitution, by enacting, That upon the demise of the king, the parliament then in being, or the last preceding parliament, should immediately meet, sit, and act. By our constitution, therefore, the care of our government has always been sufficiently provided for during a minority, though an ambitious man, supported by a rebellious party, might seize upon the government as well as the person of our infant king, contrary to the whole tenor of our constitution, which was the case upon the demise of Edward 4, and will be the case again, make what laws you will to prevent it, as often as any ambitious man has power enough to carry his designs into execution.

The giving of such a man such a power is not, Sir, to be prevented by standing laws, which signify nothing against a man who has power enough to break them with impunity: it can be prevented only by a prudent conduct in the preceding reign, and proper regulations expressly made for that very purpose. Edward 4, at the request of, or in compliment to his queen, had heaped so many honours upon her relations and favourites, and had thereby so much raised the jealousy and envy of the old nobility, that he provided a powerful party for his brother the duke of Gloucester, to head against the queen, in case of his death before his eldest son was of age; and by his having put to death his brother the duke of Clarence, he had left Gloucester without a rival for power. At the same time, by refusing to do justice to the duke of Buckingham, the next most powerful man in the kingdom, he made him an inveterate, though secret enemy, and by that means laid a foundation for his joining in any schemes against his children. The consequences of these imprudent steps he foresaw before his death, and made a faint attempt to prevent them, but he died before he could take any effectual measures; and, indeed, it was not easy to have contrived any such. The most effectual would certainly have been, to have done justice to the duke of Buckingham before his death, and to have got the queen mother appointed sole regent by parliament, with the whole sovereign power, during her son's minority; for the more danger a regent may be in, the more power such regent should be invested with; and it would have been ridiculous to have given the duke of Gloucester any share in the government but what depended upon the regent; for to grant favours or power to an ambitious man, is only enabling him to take what you do not grant.

Another effectual measure might have been, Sir, if Edward had got such a law passed in his last parliament, which was held but a year before his death, as we have now in force: I mean that for the parliament's meeting immediately upon the demise of the king; for as the old and discontented nobility seem to have had very little influence in that parliament, it is probable, that if the same parliament had met upon that king's death, they would have settled the regency upon the queen dowager, and would, notwithstanding the duke of Gloucester's dissimulation, have taken proper measures to prevent his being able to head any faction with success against her; but after he had got possession of the throne, and had cut off all those who could make any stand against him, I do not wonder at his getting such a parliament chosen as he desired; for no man durst stand a candidate in opposition to him.

Therefore, Sir, what happened at that time must shew the wisdom of the law we have now in force, for the parliament meeting immediately upon the demise of the king; and as we now have such a law, I do not think it necessary to settle a regency before the event happens: on the contrary, I think it would be better at all times to leave it to the parliament which is to meet upon the king's demise; because, the true interest of the nation would then stand fair to prevail, whereas, if settled during the life of the king, the intrigues of the cabinet may get the better of the interest of the nation. Another reason is, because it is impossible to judge before-hand, what may be most proper to be done; for the question depends so much upon the circumstances of things and persons, that the least change in either may make that very improper or dangerous, which a year or two before appeared to be the wisest settlement that could be made. And a third and most pungent reason is, because if the parliament should



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think any law necessary, in which they could not expect the concurrence of a king at full age, without risking a combustion, they might then appoint such a regent as would readily give the royal assent to such a law; an instance of which we had in the duke of Somerset, during the minority of Edward 6, who gave the royal assent to the repeal of an act slavishly passed in one of Henry 8's parliaments, by which the king's proclamation was made of almost equal authority with an act of parliament: a law which no king at full age would easily have parted with; and for the repeal of which the nation will for ever stand indebted to that regent, though he met with a very ungrateful return.

These reasons, Sir, induce me to think, that the law now proposed is far from being so necessary as some gentlemen would make us believe, nor do I think that any good argument can be drawn from what the learned gentleman who spoke last was pleased to suggest; for, said he, the parliament that meets upon the king's demise may be prevented from acting, or settling a regency, by those that get possession of the young king's person, who in his name may prorogue or dissolve it as soon as it has met, by virtue of the words in the act, "unless the same should be sooner prorogued or dissolved by the next heir to the crown;" for those words suppose the next heir in a capacity to act, which the next heir, when under age, is not. If the next heir should be a prisoner in France, and he should send a French general here, with orders to prorogue or dissolve the parliament that had met upon the demise of his ancestor, I believe no member of parliament would shew the least regard to such orders, unless the general brought an army with him sufficient to enforce them. Just so, if any bold enterpriser should attempt to prorogue or dissolve the parliament in the name of a minor successor, before they had settled a regency, I believe the parliament, instead of separating, would send him to the Tower, unless he had an army sufficient and ready to support him; and if he had, no law that could be made either before or after the event, would be of any signification.

However, Sir, to explain and enforce the intention of that act, it will be very easy, by a short Bill, to add a clause for providing, That in case the next heir to the crown be under age, or otherwise not capable to act, the parliament so assembled shall neither be prorogued nor dissolved by any person in the king's name, until after they have appointed a regency to govern in the king's name during that incapacity. And this, in my opinion, Sir, is the only general law we can make in order to provide for all future minorities; for to talk of settling a form of regency, or method of government, either by law or precedent, that is to suit all future minorities, is a vain undertaking; every future regency must be, as all past regencies have been in some shape or other, different from the former; and this is so evident, that I am apt to suspect the design to be made use of only as a pretence for doing what ought not to be done; for without any compliment to the ministers who advised this Bill, or to those who had the framing of it, I believe, they have more penetration than to imagine, that they are making a precedent, or can make a precedent, fit to be followed by all future generations.

What may be the reason, Sir, for thus precipitating a regency scheme before the event happens, I do not know: but this I am sure of, they have chosen the very worst form of a regency, when all circumstances directed them to chuse the best. What I call the best, Sir, is that which comes nearest to our established form of government, and consequently must be a sole regent with sovereign power. This, I shall grant, might be dangerous, if the person to be appointed regent were the presumptive heir of the crown, or of such high rank as might encourage him to form projects for placing himself upon the throne; but many methods might be found for guarding against this danger, beside that of dividing the sovereign power; for that it is by this Bill to be divided, cannot by any finesse be disputed; whilst ministers, or if you please, the administration, which consists of the ministers, can be removed at pleasure, they are but the servants of the crown; but the moment you make them irremovable, and nothing to be done without their consent, you give them a share of the sovereign power, you make them partners with the sovereign, or the person who represents the sovereign, and as they have the greatest share, they will probably soon become masters.

But, Sir, it is said, the regent is to have in every thing a negative voice, and the sole disposal of all posts and places not excepted in the Bill. As to her negative voice, I shall presently shew, I have some-

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reason to doubt of it; but suppose it to be so, in many cases something must be done, or confusion must ensue; and if she will not act as directed by the council of regency, she cannot act at all, consequently confusion must ensue. Sir, ministers are answerable for concurring with the king in their several departments, if what is done be wrong; but they are not answerable for not concurring, let the measure be never so right and necessary, because the king can remove them: since, then, you are to make the regent's ministers irremoveable, I think you should make them answerable for refusing to concur. Whereas, for any thing in this Bill, they may refuse their concurrence to the most necessary measure, or grant it only upon their own conditions. I could suppose a case where the regent must act or she and her children be undone, and yet where if she does act with the concurrence and upon the conditions prescribed her by the council of regency, she and her children must be equally undone: suppose an invasion threatened and headed by a pretender to the crown, and that the council of regency refuses to concur with her in fitting out a fleet and raising an army, for she could do neither without the concurrence of the Admiralty and Treasury: I say, suppose they should refuse, unless she grants to one of them, whom she has just reason to suspect of having a secret design upon the crown, an absolute, uncontroulable, and irrevocable commission to command in chief our forces, both by sea and land; in such a case, let her act upon the condition prescribed, or not act at all, she and her children would, probably, be undone.

Then as to her sole disposal of places, it is plain she can dispose of none of those, whose patent, commission, or warrant must pass the great or privy seal, or where it must be countersigned by any of the great officers, whom she cannot remove; and as to most others, they are usually in the disposal of those great officers, whose department they belong to; consequently, she can have the sole disposal of very few places either of honour or profit.

So much, Sir, for the power of the regent: and now as to the power of the council of regency; it is said, they can never meet as a council of regency but when called by the regent, nor take any thing under their consideration but what is proposed by her. As to their meeting, Sir, it would seem to me by their having a chief or head assigned them, that they can meet as often as he pleases: the Bill says, they shall meet when her royal highness shall please to direct; but there are no words to prevent their meeting without her direction, nor are there any words empowering her to put an end to their meeting; so that, when once they are met, they may sit as long as they please, adjourn from day to day, and so continue their session from the beginning to the end of the regency. And as to what they are to take into their consideration, I can find nothing in the act for restraining them from considering upon whatever matters they please, or for confining them to those matters only that are laid before them by the regent: nay, I do not find, that she has a right to be present at their deliberations; and by the clause for declaring what number shall be a quorum, they seem to be empowered to act, as well as deliberate, without her concurrence or consent; for the Bill says, that "any five of the said council, being so assembled, shall be sufficient to act as such council of regency, and all acts to be done by a major part of the council so assembled, shall be deemed to be acts of the council of regency;" which words to me seem to shew, that the regent is not in every thing to have a negative voice.

We know, Sir, how apt all courts and councils are to engross more power than what was at first designed for them; and though this council be called in the Bill, a council to assist her royal highness in the administration of government, I am afraid, it will be found to be a council to direct her royal highness in the administration of government; for if I were confined not to do any thing of importance, without the consent of two or three of my servants, I should from that moment look upon them, not as my servants, but my masters; because, in order to obtain their consent in matters of importance, it would be necessary for me to ask their consent in the merest trifles; therefore if this Bill should pass into a law, as it now stands, and we should fall under the misfortune of his majesty's death, during the nonage of his successor, the princess regent, so far as I can see, has nothing to do, but to submit herself entirely to be governed by him, who may happen to get the lead in the council of regency; and what may be the consequence of this, God only knows; but whatever it may be, I am sure I have at present as much reason to recommend the

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story of Richard 3 to the perusal of those who are now so needlessly fond of a council of regency, as they have to recommend that story to me; and I shall farther recommend to them the story of Edward 6, and the terrible consequences that befel this nation by the untimely death of that hopeful young prince, and the ambition of him who was at the head of that council of regency. Happy had it been for that prince, happy had it been for the nation, if his father, Henry 8, had, notwithstanding the complaisance of his parliament, left the appointment of a regency to the next parliament that should assemble after his death; but as he had got from the parliament a power to appoint a regency by his last will, the intrigues of the cabinet prevailed, and produced that hydra, which brought so many misfortunes upon this kingdom, and would have been the occasion of the utter extirpation of the Protestant religion, if queen Elizabeth had not been preserved by a miraculous sort of providence.

If this Bill should pass, Sir, in the form it is at present, we shall all have reason to pray, that it may not be attended with any such fatal consequences; for if it should, I am sure, neither the religion nor virtue of the present times can entitle us to hope for any relief from Providence; but by the wisdom of this House, I hope the Bill will either be rejected, or so amended as to give that gracious princess, who is named in it, not only the name but the power of a regent; for as the Bill now stands, I must look upon it rather as an insult than a compliment to her royal highness, and, in my opinion, a cruel insult too, because it is making her answerable for all the misfortunes that may happen to her children (if any should happen, which God forbid) without giving her the power to prevent them.

The House having resumed, the Report was ordered to be received on the 20th.

May 20. The Report of the Committee being brought up,

Mr. *William Beckford* rose and said:*

Sir; I have been very attentive to every argument, urged by several learned gentlemen, on this grand question, and I must confess, I was greatly surprized to hear such strange doctrines advanced by those gentlemen; doctrines, in my poor opinion, not founded on the principles of our constitution; doctrines not founded on historical facts: and I was very ready and willing to have given an answer by way of reply; and was upon my legs more than once to have done it, had not men of greater eloquence and abilities stood up, to whose superior capacities it was but becoming in me to submit, although I did not then, or ever will, allow myself inferior to any in zeal and love for the liberties of the constitution.

It was urged as a fundamental reason for bringing in this Bill, "that all the miseries and misfortunes which have attended this kingdom, during minorities, were owing to the neglect of establishing a proper plan of government for a minority before the demise of the crown; and, therefore, that it was absolutely necessary to chalk out such a plan as might stand an eternal precedent for future ages." It was then also laid down as a maxim, "that all their mischiefs and disturbances had arisen from the want of a proper council of regency, not removable at the will of the regent."

And it was farther alleged, and strongly insisted upon, by a learned gentleman, "that the difficulties and inconveniences which occurred during the last minority that happened in this kingdom (namely in the minority of Edward 6,) arose from the earl of Hertford's (who had the king's person in his hands) usurping the sole power of the regency, and destroying the power of the council, contrary to law, and contrary to the will of Henry 8. And therefore that this Bill was intended to prevent the like evil for the future, by establishing a council of regency, not removable at the will and pleasure of the regent; and appointing the penalties of the statute of præmunire to be inflicted on those persons, who shall, by intrigues and cabals, endeavour to remove or disturb this council."

In answer to which I say, that the evils which arose during this minority, were not owing to the great power unlawfully usurped by the protector (who shewed himself sincerely attached by interest and inclination to the good of the king, and the liberties of the people) but to the intrigues and cabals of that council, which had been appointed by the will of Henry 8, pursuant to an act of parliament, partly on account of religion, but chiefly from the execrable lust of power and dominion.

So that, in the end, we see seventeen

* From the Gentleman's Magazine.

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of this council, which is alleged by the learned gentleman to be, by usurpation, entirely under the influence and direction of the protector, and removable at his will and pleasure; I say, Sir, we see seventeen of this very council exhibiting articles of impeachment against this great protector, and (without power, as is alleged) bringing him, armed with power, who was uncle to the king, to the scaffold, without any rebellion, or force of arms, and making him suffer the pains of death for felony.

From this example therefore, thus fairly stated, I think it evidently appears, that the evils and disturbances which attended the minority of Edward 6, did not proceed from the want of a council of regency, made by law irremovable, but from the wicked and ambitious views of ill-designing counsellors, who had too much power in their hands, and yet were grasping at more, though at the expence of the king and kingdom.

And I am certain, if gentlemen will look carefully into the history of all the minorities that have happened in this kingdom since the Conquest, they will find all the disturbances of those minorities to have arisen entirely and solely from the divisions and intrigues of the great counsellors, and great men, all proceeding from the detestable views of power, dominion, and resentment; from the want of having the kingly power lodged in a single hand, which single hand, thus armed, might have checked their insolence, and kept their ambition in due bounds. And for my own part, I do verily believe, that the same cause will ever produce the same effect; and that the greatest confusion will arise from this council of regency, if ever we should have the misfortune to lose his present majesty, and his successor should be a minor.

Another learned gentleman (the Solicitor General) was pleased to say, "that this plan of government was the best calculated for the good of the king and of the country, of any that was ever thought of. For, without such a plan, upon the demise of the crown, any bold, ambitious, enterprising man, getting possession of the person of the minor king, and of the great seal of the kingdom, would absolutely have the power of the monarchy in his hands, and might execute all acts of regality." Strange doctrine this! and more adapted to the principles and maxims of a Turkish, or despotic eastern monarchy, than to a free British government. In those slavish governments whoever can get the great seal in his power, has the command of the empire. For there monarchs are mere pageants of state, kept from the eyes of the people; and any puppet of show, clothed with the ensigns of royalty, is as much a king in the eyes of such despicable slaves, as the best and bravest monarch.

But are we thus miserably constituted? thus liable to have our monarch stole from us by any such rogue? No, Sir, God be thanked, we are not. The monarch of Great Britain forms only one third part of our constitution, and his power is limited and circumscribed, and subject to the laws and customs of the realm. And if any vile miscreant was to steal our minor king from us, authority, thus derived, would be little regarded, the parliament would soon bring such an offender to condign punishment.

The learned gentleman was pleased to allow, "that a co-regency was a bad form of government, but that proper checks and limitations were absolutely necessary to be laid on a single regent." I most heartily agree with the learned gentleman, that all co-regencies tend to confusion; and, for that reason, I am against the council of regency, constituted as it now is by this Bill; it is, in my opinion, an absolute co-regency, and divides royalty, and the kingly power of these kingdoms in such a manner, as our forefathers never knew, and I wish it may not prove destructive to the regents themselves. I am certain, that neither secrecy nor dispatch, which are so necessary in the conduct of all great affairs of state, can be obtained by such a council; that it may give such an obstruction to business, and so clog the wheels of government, that the worst consequences may be dreaded.

The learned gentleman was pleased to say, "that in those governments, where the prince is absolute, and can appoint whom he pleases for regent, such princes never did appoint a sole regent; and the example of Lewis 14, was quoted, who, although a prince vested with absolute power, yet would not appoint a sole regent." But certainly this example was not well considered by the learned gentleman. That monarch, in his dotage, appointed his bastard son regent, and procured such appointment to be confirmed and registered in the parliament of Paris, contrary to the usage and customs of that kingdom, and in prejudice to the right of

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the lawful regent, against whom, I apprehend, the old king might have very material objections; such as the great capacity, and ambitious views of the duke of Orleans, which might endanger the safety of the minor king. But did this plan of a regency ever take place? Never. No sooner was the old king dead, than all those acts, obtained and confirmed by parliament, were rescinded and reversed, and the duke of Orleans, the right and lawful regent, is appointed and confirmed by the same parliament. Moreover, although the laws of France do not allow of the government of a female in her own right, yet they allow the absolute regal power to be exercised by a queen mother, during the minority of her son. This was the case in the two last minorities, that of Lewis 13, under Maria de Medicis, and of Lewis 14, under Anna of Austria.

All the learned gentlemen who have spoke for this Bill, seem excessively cautious and anxious not to make a precedent by constituting a sole regent. They all allow that the present princess of Wales is in every respect qualified to fill this high trust, and that it is impossible for her to have any views destructive to the young monarch or the constitution. But, say they, a bad regent may be appointed from this precedent; one who may have wicked, ambitious, and interested views, by which the safety of the king and kingdom may be endangered. But, surely, as every future parliament has the power, so they will have the wisdom to consider maturely every circumstance of time and person, and not rashly appoint an improper regent. Nay, if, contrary to their expectation, the person thus appointed should turn out a bad regent, such regent will be under the controul of parliament, in like manner as a king; for, God be thanked, the law and constitution have provided sufficient checks against a bad king, and a bad regent.

One learned gentleman (Mr. Martin), was pleased to say, "that if you were to appoint this unexceptionable princess sole regent, such appointment would be an irrefragable precedent for future times, and we might again be troubled and cursed with a wicked, lewd queen mother, and another Mortimer for her gallant." But, Sir, if that should ever be the case, (of which I do not see the least glimpse of probability,) I have no doubt, the same fate will attend such regent and her gallant, as attended the wife of Edward 2, and her paramour Mortimer. But, Sir, it is a very strange doctrine, to say, that precedents are irrefragable: Sir, the parliament is not bound by such precedents; they may alter, they have altered, they will alter this precedent, whenever the necessity of the times, and circumstances of the person shall require it.

Another learned gent. (Mr. C. Yorke), has insisted in this debate, that councils of regency are founded on the maxims and principles of the constitution, and that every delegated power, according to that constitution, should be limited; and he likewise asserted, that these maxims were proved by precedents; and the precedent on which the great stress is laid, to prove the assertion, is the precedent in the time of Henry 3, in whose minority, although a regent was appointed, yet the great offices of state, the great seal, and the care of the king's castles, were entrusted in the hands of others. But give me leave to observe, that neither this nor any other precedent, that has been quoted on the occasion, proves the assertion. Gentlemen, when they quote precedents, ought not to distort them, to make them answer a particular purpose, but should consider and weigh well the circumstances of the times and of the persons; and, if that had been done, this precedent would not have been insisted upon.

The true case stands thus: When the great earl of Pembroke was appointed regent of the kingdom, in the minority of Henry 3, under certain limitations and restrictions, the times and the persons were exceedingly different from what they are at present. Henry 3 was an infant of nine years of age when his father died, at the time of whose death, the greatest part of the kingdom was in rebellion, and the dauphin of France, in conjunction with the English barons, was in possession of the capital of the kingdom. The father of the young king was a most infamous and wicked prince, and had, by every art, sought to deprive the barons and people of England of their liberty. They, like brave and wise men, defended the blessings of freedom with the utmost resolution and fortitude, and at the expence of their blood, procured us that liberty we now enjoy. These were the men that obtained the Magna Charta, the bulwark of your present constitution. These barons, when they found themselves too weak to defend their liberties without foreign assistance, called in the French to their aid, and thus

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matters stood when king John died. But no sooner was the father dead, than all resentment to his infant son vanished. The brave and good earl of Pembroke produces his royal ward to the assembly of barons, and, by a very short but pathetic speech, turned every man present to his allegiance, and he is chosen by the great lords, guardian of the person of the king, and regent of the kingdom; (but I do not find or believe there is any mention made of a council of regency in this case) and every thing went on well so long as the regent lived. The French were driven out of the kingdom, and peace was restored.

But, Sir, I will suppose a council of regency was then appointed, and the power of the regent exceedingly limited and circumscribed, by having the great offices of the realm, the great seal, and the king's castles entrusted in other hands, in the hands of the great lords and barons of the realm. It might be, and certainly was, very good policy in those times, and yet may be, and certainly is, very bad policy at present. In those times the barons were just emerged from a cruel and dangerous war, for the defence of their just rights and privileges, against the usurpation of a most profligate and audacious king; they were therefore, with good reason, unwilling to trust the great offices of the crown, and the custody of the castles, to any single person (although a very good man), acting for, and in behalf of the crown, lest the means and opportunity might be given of acting the same bloody tragedy over again. But what resemblance, in God's name, has the case of Henry 3 with the present? And what occasion for the like precaution?

At present we have a minor prince, the son of a gentle, humane father, universally beloved when living, universally regretted when dead; whereas Henry 3 was the son of a father universally hated and detested living, and lamented by no man when dead. The mother of this young prince is so much in the good esteem of the whole nation, that I never heard that malevolent fame ever gave her one bad quality; so that no princess ever seemed fitter for government. Moreover, she can have no interest but the preservation of her children and family; and, what is more, the laws of this kingdom allow the sceptre of this realm to be swayed by the hands of women, and they have governed to the honour and glory of this nation. What policy, therefore, can it be thus to divide the regal authority of this kingdom by such unnecessary and dangerous limitations and restrictions, without one earthly reason given for so doing, but for fear it may prove a precedent for setting up a bad regent in times to come?

Another gentleman in the course of this debate (Mr. Pelham,) was pleased to say, "that by this Bill, counsel and advice was provided for the regent according to the constitution, and that by it the dignity and authority of the crown was supported." But surely in a government so framed as ours is, the counsel and advice of ten or fourteen men cannot be wanting, when the grand council of the nation and the privy council are provided for this purpose. But, what is more, the regent will have the advantage of the counsel and advice of those great personages from the offices themselves, without any appointment with new powers.

Moreover, to say the dignity and authority of the crown will be supported by such a council, and that no inconveniences can arise from such an appointment, is, I fear, saying too much. Sir, the dignity, the authority, the majesty of the king and of the kingdom, resides in the king and the two Houses of Parliament, who are the grand council of the nation: and not in a junto of a council of regency. Sir, I have great regard for the great personages that fill the great offices nominated in this Bill, and I believe them to be very uncorrupt, able, and willing to execute the high trust reposed in them by the Bill; but, Sir, although they are uncorrupt they are not immortal; they may die, they may be removed, they may resign; and to them may succeed wicked and ambitious men, men who may have no other views but those of ambition and avarice, and may have the execrable lust of power and dominion strongly impressed in their minds. I say, if such men should be once established in this council of regency (and such may be established) not removeable but by an address of both Houses of Parliament (whereas a judge of the realm may be removed by the address of either)—I say, such removal will be rendered exceeding difficult. And if such men should, by an artful distribution of perquisites and emoluments to one, feeding another with airy and glittering hopes, and threatening others, procure an undue influence in both or either House of Parliament, what mischief and confusion may



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not be expected from such a government?

And, give me leave to say, these doubts, fears, and jealousies, do not arise from the warmth and luxuriancy of a heated fancy and imagination, (as was suggested by certain gentlemen on the other side) but from the examples of former minorities; the dreadful mischiefs and calamities of those minorities did arise from the ambition, avarice, and dissention of the great counsellors, who were entrusted with too much power; all which might, and would have been prevented, if the regal power had been vested in one proper executive hand, and not divided amongst so many. For certainly no kingly government can subsist for any time, when the power of monarchy is divided amongst any number of men, instead of being lodged in one single hand, which only can give vigour and dispatch to every act of government.

As to the clause of continuing the parliament for three years, nothing has been said to convince me that it is either necessary or expedient, to prolong it beyond the time limited by law. It is a measure at no time eligible, in the present time it may be dangerous.

It has been advanced, "that parliaments have a power and right to prolong their duration, and that the *salus populi* frequently requires it." But I do absolutely deny that a parliament has a legal power and right to prolong the time limited by law, without the consent of the electors, or people whe sent them to parliament, and whose representatives they are; and I do say, and do insist upon it, that whenever parliaments do take upon themselves to prolong the time of their duration, such prolongation is an infringement of the liberties of the electors in a most essential part, and tends to destroy that freedom which they were chosen to defend.

For liberty never was, nor ever will be preserved, unless those who have the power of the people delegated to them be frequently removed. It was by the frequent rotation and change of magistracy in all countries of the world, that freedom and independency hath been preserved. It is upon this principle we find the people of England at all times crying out for frequent parliaments: and I am sure if ever frequent parliaments were necessary, they are essentially so in the present times.

But, say gentlemen, the *salus populi* makes this prolongation necessary in a minority, when the hands of government are weak, and ought to be strengthened before it is exposed to the cabals, factions, and disturbances that constantly attend the calling of a new parliament: and then rebellions at home, invasions from abroad, and even plagues are supposed in imagination to make such a measure necessary.

But, Sir, as there is not one single circumstance now existing to authorise and confirm such suspicions; as the present ministry successfully and peaceably dissolved a parliament, *flagrante bello*, and while disturbances were in the kingdom; I hope no such attack may be made on the liberties of a free people, unless the necessity of it be made appear from fact, and not from the supposition of fancy.

As for my own part, I can scarcely admit the possibility of any disturbance, either at home, or from abroad. A young prince, amiable in his person and manners, son of a father beloved by the people, born amongst us, one who has never done an act that has offended any single person living, peace and tranquillity abroad; and should any disturbances, or any unforeseen accidents arise, there are six months after the demise of the crown, provided by law, to consider whether it be necessary to prolong the parliament: whereas by rashly coming into this measure, you will give room to the people without doors to suspect that there is a design in this very council of regency to establish and perpetuate their own power by the authority of the parliament in being; which, to be sure, in the main, is a very groundless surmise: because the noble persons who fill the great offices, nominated by this Bill, are men who have shewn themselves not the least ambitious, or desirous of power; and the present parliament is certainly composed of very uncorrupt members, who are in no wise under any influence, but have, God be thanked! all honest hearts, and clean hands. But, Sir, we may all degenerate, and therefore we ought not to trust ourselves, lest degeneracy should arise.

Upon the whole, I do hope and trust that this Bill will be recommitted, in order to make a good and constitutional Bill of it; for I do solemnly declare that, in my opinion, the plan of the Bill, as it now stands worded, seems calculated to establish an oligarchy, the worst government in the world.

Mr. Beckford was answered by Mr. Pelham, and a short reply was made by Mr. Pitt, but no question being put, the

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Amendments were agreed to by the House, and the Bill passed: the Lords concurred, and it received the royal assent in two days after.

*The King's Speech at the Close of the Session.*] June 25. The King put an end to the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"The advanced season of the year makes it necessary for me to put an end to this session of parliament; and I do it with the greater satisfaction, as your diligent application to the public business has brought it to so happy a conclusion. On this occasion I cannot but return you my hearty thanks for the many proofs you have given me, of your zeal and affection for me and my government, and the care and attention which you have exerted for the interests of my people.

"As Europe now enjoys a happy tranquillity, very little alteration has been made in the state of foreign affairs since your meeting. My resolution to preserve the general peace is the same; and I have the greatest reason to rely on the like good disposition in the powers in alliance with me, not only being continued, but confirmed and improved.

"Gentlemen of the House of Commons;

"The readiness with which you have granted me the Supplies for the service of the current year, demands my particular acknowledgments; and the prudence and firmness you have shewn in completing the reduction of the interest of the national debt, is as agreeable to me, as that measure is essential to the strength and welfare of my kingdom.

"My Lords and Gentlemen;

"I have nothing to desire of you, but effectually to consult your own true happiness and interest. Let it be your care to maintain, in your several counties, the public peace and good order; to encourage and promote a just reverence for government and law; and not to suffer those good laws, which are enacted here, to lose their effect, for want of a due execution."

The Parliament was then prorogued to the 13th of August. It was afterwards further prorogued to the 14th of November.

## FIFTH SESSION
### OF THE
## TENTH PARLIAMENT
### OF
## GREAT BRITAIN.

*The King's Speech on Opening the Session.*] November 14, 1751. The King opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen;

"It is with great satisfaction that I meet you in parliament at this time, when the continuance of the public tranquillity, and the flourishing condition of my kingdoms, leave us nothing to desire, but to secure and improve our present situation. To this end all my views and measures have been directed both at home and abroad; and, in this state of things, nothing can give me more real pleasure, than to observe those solid advantages, which my good subjects reap from it, in their trade and manufactures; some branches whereof have also received considerable benefit, from the wise provisions which have been made by this parliament.

"The Treaty lately entered into with the elector of Bavaria, was laid before you in your last session; and I then acquainted you, that I was taking such further measures, as might tend to secure the tranquillity of the empire; support its system; and timely prevent such events, as had been found by experience to endanger the common cause. I have since, for the same purposes, in conjunction with the States-General of the United Provinces, found it necessary to conclude a treaty with the king of Poland, elector of Saxony; which shall be communicated to you.

"The unfortunate event of the prince of Orange's death has made no alteration in the state of affairs in Holland; and by the prudent and early measures taken there, the quiet of that country has been preserved, and their government carried on upon the foundation of the settlement, which had, with so much foresight, been previously established by laws of the republic. I have received the strongest assurances from the States-General of their firm resolution to maintain that strict union and friendship, which so happily subsist between me and those ancient and natural allies of my crown.

"Gentlemen of the House of Commons;

"I have ordered Estimates of the ex-



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pences of the ensuing year to be prepared and laid before you, and have no other supplies to ask of you, but such as are requisite for those services, and for making good such necessary engagements, as you are made acquainted with. The success which has attended your firmness in reducing the interest of the national debt, will, I am confident, give you the greatest satisfaction.

" My Lords, and Gentlemen;

" The experience I have had of your dutiful and steady conduct, makes it wholly unnecessary for me to press upon your unanimity and dispatch in your deliberations. But I cannot conclude, without recommending to you, in the most earnest manner, to consider seriously of some effectual provisions to suppress those audacious crimes of robbery and violence, which are now become so frequent, especially about this great capital; and which have proceeded, in a great measure, from that profligate spirit of irreligion, idleness, gaming, and extravagance, which has of late extended itself, in an uncommon degree, to the dishonour of the nation, and to the great offence and prejudice of the sober and industrious part of my people."

*The Lords' Address of Thanks.*] On his majesty's retiring from the House, Lord Chief Justice Lee, in the room of the Lord Chancellor, who was indisposed, took the chair; when a motion was made by the earl of Coventry, seconded by lord Willoughby of Parham, for an Address, which was agreed to without opposition, as follows:

" Most gracious Sovereign,

" We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, approach your throne with hearts full of that zeal and affection for your person and government, which become the most faithful subjects to the best of kings.

" We beg leave in the first place, to return your majesty our humble thanks for your most gracious Speech from the throne; in which you have, with so much goodness, expressed your care of our welfare, and your delight in our happiness. Justice, as well as gratitude, calls upon us to acknowledge the inestimable blessings we enjoy under your majesty's auspicious government; and that the continuance of the public tranquillity, the prosperous situation of your kingdoms, the flourishing condition of our commerce, and the opportunity which these circumstances have afforded, for the reducing the burden of the national interest, are, under the Divine Protection, owing to the wise measures which your majesty has pursued, both at home and abroad, for the true interests of your people.

" We are fully sensible, that those measures have not been restrained merely to present objects, but have been prudently extended to guard against future evils and dangers. In this light we consider the treaty lately concluded by your majesty with the king of Poland, elector of Saxony; the good effects of which will, we hope, be fully answerable to your great and salutary views.

" The death of the prince of Orange, a prince so nearly allied to your majesty, and of such importance to the common cause, has given us great concern. But it is a real satisfaction to us, that this unfortunate event has been attended with no ill consequence to the state of affairs in Holland; whose security and welfare we consider as intimately connected with our own. The support of that government, upon the settlement which had been before happily established, and the cordial assurances which your majesty has received from the States-General, give us the greatest pleasure; and confirm us in that resolution, which we have long adhered to, of maintaining and cultivating the strictest union and friendship with that Protestant republic.

" We acknowledge, with all thankfulness, the paternal regard which your majesty has shewn for your people, in publicly declaring your just resentment against those audacious crimes of robbery and violence, which, in defiance of the laws, are now grown to such an excess, particularly in this part of the kingdom. We look upon them as a real nuisance and dishonour to the nation; and the increase of irreligion, idleness, gaming, and all kinds of licentiousness, has been long lamented by all good men, as the unhappy source of this, and many other mischiefs. All considerations, both religious and political, call upon us to put a stop to these growing evils; and nothing shall be wanting, on our part, to enforce and strengthen the laws for punishing and suppressing all such wicked practices, and to prevent and remedy the pernicious causes of them. Permit us, at the same time, to give your majesty the strongest assurances, that we are zealously determined in all our delibera-

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tions, to contribute every thing in our power to the security and quiet of your majesty's government, the happiness of your people, and the glory of your reign."

*The King's Answer.*] To which his majesty replied:

"My Lords,

"I thank you very kindly for this dutiful and affectionate Address. The satisfaction you shew in the measures I have taken, both at home and abroad, for the preservation of the public peace, and for the advancement of the interests of my people, is very agreeable to me—and cannot fail of having a good effect for promoting those great and salutary views."

*The Commons' Address of Thanks.**] The Commons having returned to their House, the following Address was moved by lord viscount Downe, who in his speech enlarged on the glory of his majesty's reign, the happiness of the present times, the flourishing condition of our manufactures, the increase of our commerce, and the security of those blessings by the wise and prudent measures taken for the support of the system of the empire, &c. He was seconded by sir William Beauchamp Proctor, and the Address would have passed *nem. con.* but sir John Hynde Cotton objected to the words in a "flourishing" condition, which he thought not proper, as the ordinary supplies in time of peace could not be raised within the year, without having recourse to the sinking fund, and increasing the national debt instead of lessening it.

"Most gracious Sovereign,

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, humbly beg leave to return your majesty our most hearty thanks for your majesty's most gracious Speech from the throne.

"Permit us, Sir, with hearts full of gratitude, to express our lively and due sense of the happiness we enjoy under your majesty's wise and just government, and our well-grounded confidence, that your majesty's views are, and ever will be, directed to no other end, than to secure and improve the present flourishing condition of your kingdoms. The regard your majesty is pleased to testify for the advancement of our trade and manufactures, as it is a signal instance of your majesty's constant and universal attention to the welfare of your subjects, demands our sincerest acknowledgments; and it cannot but be matter of the highest satisfaction to us, that the provisions, made for that purpose by this parliament, in pursuance of your majesty's most gracious recommendation, have produced the desired effect.

"We unfeignedly assure your majesty, that we will readily concur in all such measures, as tend to secure the inestimable blessings of peace to us, by establishing more firmly the general tranquillity in Europe. Affected with the deepest concern, we condole with your majesty on the unfortunate event of the death of the prince of Orange; but, at the same time, beg leave to express the great consolation we feel, from the strong assurances given to your majesty, on this occasion, by the States-General of the United Provinces, which leave us no room to doubt of the continuance of that strict union and friendship, so essential to the interests of both countries.

"Your faithful Commons with the utmost cheerfulness promise to grant to your majesty such supplies, as may enable your majesty to fulfil the engagements, and answer the several services, which shall be found necessary for the public good.

"We cannot sufficiently acknowledge your majesty's wisdom and goodness, in recommending to our consideration the mischiefs and dishonour, which arise to this nation from the audacious crimes of robbery and violence, so notorious of late to all the world; and we humbly assure your majesty, that we will seriously proceed in revising and enforcing such laws, as may contribute to suppress those enormities, by discouraging irreligion, idleness, gaming, and immorality, by promoting industry, and establishing good order amongst your majesty's subjects."

*The King's Answer.*] His majesty gave this Answer:

"I thank you most heartily for this very affectionate Address. Nothing can give me so great pleasure as to see my people happy. It shall be my constant care, as far as in me lies, to make them so."

* "Nov. 14. Parliament opened. Lord Downe and sir Willam Beauchamp Proctor, moved and seconded the Address. No opposition to it." Dodington's Diary.

"This session of parliament was, perhaps, the most unanimous ever known." Tindal.

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*Debate in the Commons on a Motion for the Recommittal of the Hon. A. Murray, for refusing to Kneel at the Bar of the House.**] November 20. The House having been moved, That the several Resolutions and Orders of the House, relating to the hon. Alexander Murray, made upon the 6th of February last (see p. 891,) might be read,

Lord *Coke* rose and said:†

Sir; as the obstinate contempt shewn by this gentleman to the orders of this House, during the last session, and the arrogance with which he seemed to triumph over us upon his exit from Newgate, at the end of that session, are so notoriously known, I hope I need not use many arguments for convincing gentlemen, how necessary it is for the preservation of our authority, to abase the pride of that gentleman, and to shew to the world, that no person within his majesty's dominions shall with impunity dare to treat us with contempt. I shall always be against any cruel method of proceeding even against the most criminal offender; but, Sir, if we do not exert our power upon this occasion, as far as we can stretch it, within the bounds of that humanity, which is so conspicuous through the whole body of the laws of this country, and has always been the characteristic of this august assembly, both our resolutions and orders will become the scoff of all those who can abscond during a session of parliament, or who can support themselves in gaol until the end of that session by which they have been committed. This way of despising the authority of this House, and evading the acknowledgment of that respect and submission which every good subject of this kingdom will allow to be due to this assembly, has of late years been so often practised, that it is high time for us to put an end to it, by shewing that though our power be suspended, it is not annihilated by a prorogation, nor even by a dissolution.

This, Sir, if we had no other reason, is sufficient for inducing us to enforce the orders of last session, by compelling that gentleman to submit to the punishment which he so highly deserved for his dan-

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* From the London Magazine.

† "Amongst the first matters that came before the House of Commons, was the case of Mr. Murray, who, as the reader has been informed, had delivered himself from Newgate by the rising of the last session. The circumstance of the sheriffs of London attending triumphantly from Newgate to his own house, gave great offence to many of the violent members; and though no formal motion was made, yet some talk passed in the House about bringing them to the bar for it, because their proceedings reflected upon the justice of parliament. A violent vote certainly would have passed on this occasion, had it not been for the moderation of Mr. Pelham; but he could not prevent their voting, that Mr. Murray should be again committed close prisoner to Newgate, upon his former demerits. Though the motion for this was opposed by several members, who doubted of the power of the House to enforce the sentence of a former session in matters of privilege, yet the same was not only carried, but a motion was likewise again made, and carried, for Mr. Murray's receiving the sentence of his commitment to Newgate upon his knees at the bar of the House. That gentleman, however, had very prudently provided against the impending storm, by retiring out of the kingdom: and the serjeant at arms reporting that he could not be found, after the most diligent search, the House voted to address his majesty, that he would be pleased to issue his royal proclamation for apprehending the said Mr. Murray, with a promise of a reward for the same.

"A pamphlet had been published, during the recess of parliament, intitled, 'The Case of the honourable Alexander Murray, esq. in an appeal to the people of Great Britain, more particularly the inhabitants of the city and liberty of Westminster.' This pamphlet undoubtedly contained several atrocious reflections upon the returning officer, and upon the proceedings of the House of Commons against Mr. Murray; but, strictly speaking, the matter of it was cognizable by the House of Commons only, and could not properly be brought under the denomination of a libel. It was, however, voted by the House of Commons to be a libel upon them, of the most infamous kind; and they addressed his majesty to give directions to the attorney general, to prosecute the authors, printers, and publishers of it. This prosecution was accordingly carried on, and the person who was both printer and publisher, was brought to his trial, but acquitted." Tindal.

"When the cause was heard before the lord chief justice of England, a jury of free-born Englishmen, citizens of London, asserted their privilege of judging the law as well as the fact, and acquitted the defendant with a truly admirable spirit of independency. They considered the pamphlet as an appeal against oppression; and, convinced that the contents were true, they could not in conscience adjudge it a false libel, even though it had been so declared by one of the branches of the legislature." Smollett.

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gerous and seditious practices, and which he evaded by a contempt of your authority, Sir, still more dangerous and more seditious. If he had since shewn the least sign of repentance, it might have been an argument for our overlooking and neglecting his past offences, as not worth our farther notice; but, on the contrary, almost every instance of his behaviour since that time, has been a renewal of his contempt. He was not satisfied with walking out of Newgate, when the doors were opened to him at the end of the session, but having collected a number of people, he made a sort of cavalcade along the streets in a triumphant manner, as if he had been suffering for the cause of liberty, and as if we, who are the guardians, were become the oppressors of the privileges of the people; and in this cavalcade, he was attended by magistrates, who, I am sure, had no business there. Nay, I have great reason to suspect, that he went still farther; for about the same time, or very soon after, a printed pamphlet was published, and most industriously dispersed, intitled, "The Case of the hon. Alexander Murray, esq. in an Appeal to the people of Great-Britain, more particularly the inhabitants of the city and liberty of Westminster;" the very title of which pamphlet shews that it was published with a design, if possible, to raise an insurrection; and the pamphlet itself contains, in my opinion, and in the opinion of every gentleman I ever heard talk of it, one of the most impudent and malicious libels upon the proceedings of this House, that was ever published even in this country, where the press is indulged with a liberty, that in any other country would be deemed a licentiousness of the most dangerous nature.

I hope, Sir, the House will take a proper method for discovering the author or authors of this pamphlet; but whoever was the author or authors, I have reason to suspect, and indeed, every gentleman must have reason to suspect, that it was not published without Mr. Murray's approbation. If it was not, I am sure he deserves the severest punishment this House can inflict upon him; but this is not the case now before us: I mention it only to shew what we may expect, if we allow any man whatever to contemn our orders with impunity; and I mention it as a presumption of the strongest kind, that he has not in the least repented of his former transgressions; therefore if we have any thing of that magnanimity left by which this assembly was directed in former ages, we must resolve to bring this gentleman again before us, in order to subject him to that punishment which he last session evaded; and when we have done so, we may mitigate that punishment, if he should, by testifying a sincere repentance, give us any reason to do so.

As the orders of last session have been read, Sir, and as the facts are recent in every gentleman's memory, I think, I need add no more, and therefore shall conclude with moving, "That the hon. Alex. Murray esq. who, on the 6th of February in the last session of parliament, was, for dangerous and seditious practices, in violation and contempt of the authority and privileges of this House, and of the freedom of elections, ordered by this House to be committed close prisoner to his majesty's gaol of Newgate, and was also, at the same time, ordered by this House, to be brought to the bar thereof, to receive his said Sentence, there upon his Knees: and, before the said sentence was received by him, did, by a high and most dangerous contempt in him, of the authority and privilege of this House, and by persisting in the same, avoid the execution of the said sentence, during the remainder of the said session of parliament, be now committed close prisoner to his majesty's gaol of Newgate, for the said dangerous and seditious practices, in violation and contempt of the authority and privileges of this House, and of the freedom of elections."

Lord *Egmont:*

Sir; I am extremely sorry to hear this affair brought again before the House, because I am persuaded, that the wisest thing we could have done, would have been to let it rest in oblivion. The people of this country seem at present to be in a most quiet and peaceable disposition, which is a disposition that we ought to cultivate; and as great numbers were concerned in this affair originally, I am sure we ought not in prudence to irritate them by a way of proceeding, which, though authorised by precedent, must be allowed not to be common. The noble lord talks of preserving our authority: Sir, by agreeing to his motion we may give a fresh and a signal instance of our power; but I much fear we shall thereby lose our authority; for authority does not depend upon power, but upon the wisdom and

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justice with which power is exercised. When power is wisely and justly administered, it is accompanied with authority, and has therefore no occasion for severity; but when it is imprudently or unjustly exercised, it is forsaken by authority, and must therefore have recourse to severity, which appears to have been the case of all the cruel tyrants we read of in history.

I hope, Sir, that all the resolutions and orders of the House last session, in relation to the Westminster election, or any person concerned in it, were founded in justice. As a member of the House I am obliged to think so; but the people without doors do not lie under the same obligation, and it is certain that there are many who think otherwise. In all such cases prudence directs us to proceed with moderation, which will always be the most effectual for bringing people over to our way of thinking, and every one must allow, that in moderation there is more magnanimity than in severity. As to the case of the hon. gentleman now under consideration, if it be rightly considered, it may perhaps be a case that deserves the highest compassion, instead of the severest punishment: he was accused of facts which the House thought dangerous and seditious: those facts were proved by witnesses which the House thought unexceptionable; yet still he may be innocent, and he certainly knows better than any other man can. He either may not have been guilty of the facts laid to his charge, or he may not have been guilty of them in the manner they were represented to us, and from which we formed our judgment of them. Cases of this nature, Sir, happen every day: do not we often hear of persons going to death with solemn declarations of their innocence, as to the fact for which they suffer? Has it not happened sometimes, that after the death of the supposed criminal, his innocence has become manifest? Yet neither the judge nor the jury by whom he was condemned, were any way to blame, because no human knowledge could take any exception to the evidence, and the judge was obliged to pronounce the sentence appointed by law. Suppose that this should be the case with respect to this gentleman: he himself still insists that it was; and he thought that his falling upon his knees to receive the sentence of this House, would have been an acknowledgment of his guilt.

This, I shall grant, Sir, is a wrong way of thinking: but will you increase, will you perpetuate a man's punishment, because he happens to be of a wrong way of thinking? This is not all, Sir, suppose he had fallen upon his knees to receive the sentence of this House, which was for his being committed close prisoner to Newgate, the meaning of which is always understood to be, that he shall remain there, until he gets a Petition presented to the House, confessing his fault, and begging pardon for his offence. This he must have done, or he must have remained in Newgate, as he did, until the end of the session; and as this likewise would have been deemed a contempt, there would have been the same reason for renewing the order at the beginning of this session. We have in this country, Sir, an ancient and a very ridiculous law, that if a man accused of any crime refuses to plead, he shall be pressed to death: suppose this law had been extended a little farther: suppose the law had been, that if a condemned criminal refused to confess his being guilty of the crime, and to acknowledge the justice of the sentence, he should be pressed to death, and I have been told they have in Holland some such law, would not this be tyrannical, would it not be torture? What the noble lord now proposes is really, in my opinion, something of this kind; for if the gentleman be conscious of his innocence, and at the same time firmly convinced, that his receiving his sentence upon his knees would be a confession of his guilt, he must continue an exile during life, or he must take up his quarters in Newgate from the beginning to the end of every future session. I say every future session, Sir, because there would be the same reason for committing him at the beginning of next session, and every future session, that there is at the beginning of this, which, in my opinion, would be a most cruel prosecution.

As to the consequences, Sir, of our not abasing the pride of this gentleman, as the noble lord was pleased to express himself, that is to say, of our not compelling him to confess himself guilty of what, he says, he knows himself innocent of, I believe we need be under no apprehension; for in the first place, I hope, it will never again happen, at least I may hope, that it will very rarely happen, that this House shall find a man guilty of what he knows himself innocent of; and if it should ever happen, I believe, we shall much more rarely happen to meet with a man so tenacious of his honour or his opinion, as to lie a whole

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session in Newgate without pen, ink, or paper, and without any person to see him, unless by the leave of the House, rather than depart from his opinion, or from a point in which he thinks his honour concerned; and if we should ever again meet with such a man, I shall always think such a confinement for one session sufficient punishment for his obstinacy. Would you banish a man, Sir, for such a whimsical obstinacy? Would you send him regularly to Newgate at the beginning of every session, and keep him there under such a solitary confinement; until he should have reason to rejoice, and the whole nation, I fear, would with him rejoice at your separation? Sir, I hope the character and dignity of this assembly will always be supported by the wisdom and justice of our proceedings, not by the severity of our punishments. By such a method, Sir, we may for a while preserve our power, but like all other tyrants, we shall lose our authority; and I can tell you, Sir, that our power depends upon our authority, not our authority upon our power; for every one knows who would be glad not to be troubled with such an assembly; and if we should ever, by the severity of our proceedings, put an end to our authority, they then may, and they certainly will very soon put an end to our power, as Oliver Cromwell did to that very parliament which had given him his power.

The question now before us is therefore, Sir, of much more consequence than the noble lord imagines; and I was sorry to hear it supported by an insinuation of facts of which we have no proof, nor can at present have any parliamentary knowledge. This is really, Sir, not a very fair way of proceeding; because they may influence the opinion of some gentlemen, who would otherwise have been more inclined to mercy than severity; and were the facts to be enquired into they might perhaps appear in a light very different from that in which, I am convinced, they have been represented to the noble lord. If the gentleman was attended from prison by some of his friends, it is what we cannot find fault with: he could not refuse his friends the satisfaction of seeing him delivered from such a tedious confinement; and if he was attended by his keepers, who had used him with all the humanity in their power, it was but grateful in him to invite them to an entertainment, it was but civil in them to accept of his invitation. This does not therefore deserve our notice, but if his delivery became the topic of popular joy, it does indeed deserve our notice, but far from exciting a continuance of our resentment, it ought to be a warning to proceed with caution; for a general popular opinion, however founded, ought never to be neglected by those in authority; and a wise magistrate will never persist in a measure, if not absolutely necessary, which he finds to be against the general bent of the people. This was queen Elizabeth's maxim, during the whole course of her reign, though her measures were generally so wisely undertaken, that she had seldom any occasion to depart from them; but she readily did, as soon as she found them unpopular, and upon a remarkable occasion of this kind, she made such a speech to her parliament as ought to be a lesson to every future sovereign of this kingdom; for none but popes and fools will ever pretend to be infallible.

As to the pamphlet mentioned by the noble lord, if, after I have heard it read, I should be of opinion, that it is such a libel as he represents, I shall be ready, Sir, to join in all proper measures for discovering and punishing the author of it; but surely we are not to make it a handle for treating a gentleman with severity, who, for what we know, was no way concerned in its composition or publication. When we consider how ready booksellers and their authors are to compose and publish a pamphlet upon every occasion, which, they think, will promote a sale, we may easily suppose, that it might have been written and published without his privity. We cannot suppose, that it was written by Mr. Murray himself, as it was published, it seems, presently after his discharge from Newgate, and as he had neither pen, ink, nor paper, whilst he was there, unless we suppose, that he wrote it as Faustus is said to have written some of the books he first printed, "neque calamo neque atramento, sed mirabili quadam arte." As little can we suppose, that it was written by any of the people we allowed to see him in Newgate; for I have not heard that any of them ever attempted to be an author: I must therefore own, Sir, that I am at a loss to comprehend, what reason the noble lord has to suspect that Mr. Murray approved of the writing or publishing this pamphlet. On the contrary, if it be such a libel as the noble lord represents, it may have been written and published by one of Mr. Murray's enemies, on purpose to inflame the resent-



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ment of the House against him; and whoever was the author, I am sure he could be no friend to Mr. Murray, because he could not but foresee the use that is now made of it. For this reason I suspect, that the author was either an enemy to Mr. Murray, or a friend to a cause which I am ashamed to name, because it has so often been made use of in this House for very bad purposes; and if the friends of that cause have already begun to make their own use of that gentleman's case, it should be a caution against our proceeding farther in that case with any extraordinary sort of severity; for whatever opinion some gentlemen may entertain of the judgment or conduct of the friends of that cause, their disappointments hitherto have been more owing to the mildness and lenity of his majesty's government, than to any mistake or want of conduct in them. Whilst the people consider coolly the consequences of things, and think that they can enjoy life with security, it is hardly possible to raise a rebellion against an established government; but when their passions are inflamed by the severity of punishments, and their security rendered precarious by prosecutions which they think unjust, they want only a leader for breaking out into rebellion; and we ought to consider, that if ever the people of this country should be worked up into such a temper, they cannot be long without a leader, who has shewn, that he has courage to undertake the most dangerous enterprise, and such a wisdom to conduct the most difficult one, as could be overmatched by none but that royal prince who was at last sent against him.

To conclude, Sir, suppose that Mr. Murray had behaved as I believe most men would have done upon the like occasion: suppose, that notwithstanding his innocence he had submitted to receive the sentence of this House upon his knees, and that in a week or two afterwards he had got a Petition presented, confessing and begging pardon for his offence, would you have rejected his petition? Would you have kept him confined in Newgate during the whole session? I believe there are very few that hear me, who would have countenanced such severity. A fortnight's confinement in such a noisome and dangerous dungeon would have been thought punishment enough for the crime he had been convicted of, I believe, by a great majority of this House; therefore I must think, that such a confinement for a whole session was a most sufficient punishment, not only for the practices he was convicted of, but also for the contempt he had been guilty of; and I am convinced that the generality of people without doors will be of the same opinion; especially as that contempt was not owing to any want of respect for this assembly, but to a mistaken point of honour, or I may say, a scruple of conscience, for they are in effect the same; because in both the opinion of other men is not to be regarded: a man must in his own opinion be satisfied that he is right before he can act; for no man of true honour will do what he himself thinks dishonourable, any more than a man of true religion will do what he himself thinks irreligious, because other people tell him it is not so; and to punish a man in either case for not doing is persecution: to punish him severely is cruelty: it is requiring of mankind something more than passive obedience, it is requiring active obedience, which even a Jacobite would not require from a subject to his sovereign; and our insisting so peremptorily upon such an obedience, will, I am afraid, alienate the minds of all true Whigs from this assembly, perhaps from this government; therefore, Sir, unless the noble lord will consent to drop his motion, I must think myself bound in duty, to conclude with moving, "That this House do now adjourn."

Lord *Coke*:

Sir; I must confess, that the noble lord has said every thing that could be said in favour of this obstinate offender, whose case is now under our consideration, yet nothing he has said gives me such a conviction, as can induce me to drop my motion, I have, it is true, a compassion for the wrong-headed obstinacy of this gentleman, but I have a much greater compassion for the honour and dignity of this House, which is, I think, deeply concerned in the present question. Call it prosecution or persecution, which you will, it is what the culprit highly deserves, because he is himself the cause of it; for by his behaviour he has brought the affair to this short question, Whether we shall depart from our honour and dignity, or he from his obstinacy; and upon such a question, surely no member of this House can balance a moment how to determine. Moderation and mercy I shall always be for, as often as there can be room for any;

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but there can be no room for either, until the culprit submits and confesses his fault. We have the greatest, the most venerable example for denying forgiveness to those who do not sincerely repent of their transgressions; as to the sincerity of the heart we cannot judge, it is true, with any certainty; but surely we ought to insist upon all the outward signs of repentance, and these every man must exhibit, before he can lay any claim to our mercy. Before this to grant mercy is pusillanimity. It is *parvi et pusillanimi* not to exert our power against a man who disdains to sue for our compassion.

There is no man in England, Sir, who has a greater regard for liberty of conscience than I have, and I hope, I have as great a regard for honour as any man breathing; but even with regard to scruples of conscience, there are some which cannot be indulged, because they are inconsistent with the preservation of society. We know that we have in this country a numerous set of people, who pretend a scruple of conscience against paying tithes; and we know the law dooms them to prison till they pay their tithes. Did ever any man but a Quaker deem it persecution to hold a man in prison until he paid his tithes, or shewed he was not able to do so by surrendering all he had to his creditors. These very people pretend a scruple of conscience of fighting even in defence of their country: and I remember that during the last war, the Quakers in Pensilvania refused to pay a tax, because it was imposed for providing soldiers and arms to fight against the enemy; for said they, as it is not lawful to fight, it is not lawful for us to pay towards supporting those that engage in such an unlawful act. This was a scruple of conscience; but will any one say, that it would have been persecution to imprison a Quaker who refused to pay his quota of that tax, and to detain him in prison until he paid it? Suppose a great majority of the people of this country were Quakers, and an invasion should happen, would it be persecution to insist even upon active obedience, by compelling them to fight against the invaders of their country? They might perhaps for some time adhere to their scruple of conscience; but if they were put in the front of the battle, and once saw two or three friends killed, I believe, they would then make use of the profane weapons that had been put into their hands, and fight as obstinately in defence of their lives, as men who never pretended to any such scruple of conscience.

This has always been the case, Sir, with unreasonable and ridiculous scruples of conscience: they are supported by indulgence, but drop as soon as you begin to treat them with the severity they deserve. And it will be the same with all unreasonable and ridiculous points of honour, of which sort I must reckon this gentleman's; for supposing that he knew himself innocent of the practices laid to his charge, and so fully proved against him, his submitting to receive the sentence of this House upon his knees was no confession of his being guilty, nor could by any man be understood as such. It was only a sign of his respect for this august assembly, which all men have hitherto shewn, and which immemorial custom has rendered it necessary for us to insist on. Had he shewn this respect, he would, I shall grant, have been nevertheless committed to Newgate, and perhaps he could not during the session have been discharged from thence without confessing his fault and begging pardon; but had he neglected, or resolved not to do this, and consequently had lain in Newgate until the end of the session, he would then have suffered the punishment inflicted by the House upon his crime, and the House would probably have thought it a sufficient punishment, therefore there would not have been the same reason for committing him again at the beginning of this; for I believe the House never insisted upon a man's confessing his guilt and begging pardon, as a necessary consequence of his commitment: the only consequence is, that unless he does so, he must remain confined until the end of the session; nor is this properly an aggravation of his punishment, it is only a refusal of mercy to one who will not deign to sue for it. Nay, I believe, the House would not insist upon a man's express confession of his guilt, or of the fault he is charged with: if in his petition he only expressed his sorrow for having incurred the displeasure of the House, which is no confession of guilt, and begged to be discharged, I am persuaded, the House would grant his petition, especially if he had been committed for a fact, which, though proved, he might possibly be innocent of.

As to the consequences with regard to this particular case, I shall grant, Sir, that we have not much to fear; because we may perhaps never again meet with such



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a wrong-headed delinquent; but an opinion seems to prevail without doors, that we cannot in a future session renew an order for a commitment made in a former. This opinion will be confirmed, should we now neglect or refuse to renew the order made last session against this gentleman; and if this opinion should become general, no man will regard our displeasure in any case whatever. We shall meet with affronts every session, should people once begin to think, that by keeping out of the way until the end of the session, they may evade all the effects of our resentment. Therefore let our authority proceed from what it will, it is, I think, intimately concerned in the question now before us. Among the peaceable and good, I shall admit we may preserve our authority by the wisdom and justice of our proceedings; but among the seditious and wicked, we must preserve our authority by the exertion of our power; and that exertion must be mild or vigorous, according to the circumstances of the criminals that fall under our cognisance. To the repenting offender we ought to shew mercy, but the obstinate transgressor ought to be made to feel the severest effects of our vengeance.

It was only to inculcate this general principle, Sir, that I just mentioned this gentleman's triumphant exit from Newgate, and the seditious libel published in his name; for as to the motion I have made, it does not stand in need of any support from thence. It is sufficiently supported by the facts mentioned in it, and they are such facts as every gentleman present knows to be true. But even as to the other facts, they are so notorious, that I hope some enquiry will be made into them; for notoriety I have always heard to be a sufficient foundation for parliamentary enquiry. This, however, is a second consideration, which I may perhaps trouble you with, if the motion I have made be agreed to; and therefore I must insist upon the question.

Mr. *Humphrey Sydenham:*

Sir; I was glad to hear the noble lord own that any thing could be said against our proceeding farther in an affair which, I am afraid, will confirm an old proverb: I wish with all my heart that it had had such weight with his lordship, as to prevail with him to drop his motion; but since it has not, I think myself obliged to second the motion made by my noble friend near me. How the noble lord who moved first in this affair, came to talk of magnanimity or pusillanimity I cannot understand; for surely there can be no magnanimity in a prosecution carried on by the Commons of Great Britain with the utmost severity against a private gentleman, nor could there be any pusillanimity in their dropping such a prosecution. This way of talking seems to intimate, that the noble lord knows of there being something more in this affair than at first view appears; and for my life I cannot suggest to myself what more there can be in it, unless it be, that there is a hidden design, by means of this prosecution, to shew, that no commoner of England shall for the future with impunity dare to be active in any election against the candidate who comes recommended by the ministerial fiat. If this be the design, I shall grant there is something more than magnanimity in pushing it; but I cannot grant, that there would be pusillanimity, on the contrary, I must think there would be great wisdom in dropping it.

But, Sir, whatever design the noble lord and his friends may have in pushing this prosecution, from all the conversations I have had upon the subject I have reason to fear, that the people without doors will look upon it as carried on with such a design; and what must they think of a House of Commons, that under the pretence of vindicating their privileges, shall render themselves subservient to such a design? for this will be the light in which it will be put by many of the electors, not only in Westminster, but in every part of Great Britain. They will be apt to look upon that point of honour, which the noble lord was pleased to call unreasonable and ridiculous, as a point which we ought to have allowed as an excuse; and really in this age of libertinism, when all points of honour, except merely that of a personal affront, are turned into ridicule, this House ought not to be the first to punish a man for adhering too strictly to what he may think, though erroneously, a point in which his honour is concerned. I hope, we have still many, but I wish we had many more men of such nice honour; for as to scruples of conscience, they seem to be entirely laid aside, in every affair, in which a man's interest is any way concerned. Even the Quakers seem of late to be grown very little scrupulous as to many points of which they were formerly extremely tenacious; and if they were still so, one of them might very probably be

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guilty of the same sort of contempt from a scruple of conscience, which this gentleman has been guilty of from a point of honour.

Suppose, Sir, a Quaker of the ancient cast, should be brought before us for some malversation at an election, and we should order him to be committed to Newgate, and to receive his sentence, at the bar of this House, upon his knees. We know that when brought to our bar, he would neither be uncovered, nor fall upon his knees. Should we look upon this as a contempt of our authority? Should we doom him to perpetual exile, or a long imprisonment, every year of his life, for this contempt? If we did, most people without doors would, it is true, laugh at him for his ridiculous scruple, but at the same time they would hate us for our ridiculous severity. The case of the gentleman now under consideration is much the same, but with this difference, that his point of honour is not so ridiculous as the Quaker's scruple of conscience; for I am persuaded, there are many men in this kingdom, who would go to death rather than acknowledge themselves guilty of a crime they were innocent of, or do any thing that might seem to infer such an acknowledgment; and for this reason such a severity against him, will be more hateful to the people. In short, Sir, there is hardly, I believe, a man in England who will suppose that such a severity proceeds from our resentment of the contempt he has been guilty of: they will suppose, either that we are governed by the personal resentment or private advantage of some of our members, or that there is such a latent design as I have mentioned; and neither of these suppositions can, I am sure, contribute to the preservation of our authority, honour, or dignity, even among the peaceable and good part of his majesty's subjects; for the regard of them alone can be properly called authority, because that which the wicked and seditious have for us, is not authority but fear; and this, I own, must always be preserved by a vigorous exertion of our power; but I hope, we shall never exert it in such a manner as to become terrible to the virtuous as well as the vicious, much less in such a manner as to become terrible chiefly to men of true honour and principle.

To shew mercy to the repenting, and severity to the obdurate offender, is, I own, Sir, a very good rule for our conduct; but as we cannot judge always with certainty of a man's guilt, no more than we can of the sincerity of his repentance, we should be the more inclined to mercy, especially when there is a possibility of his being innocent, because in such a case we may mistake innocence for obstinacy, which may be the case with this gentleman; for though the majority of this House thought otherwise, I never thought that the proof against him was so very full and unexceptionable as the noble lord seems to think it was; and if the gentleman is innocent, I should be glad to know what his lordship would have him repent of. He cannot repent of a crime he never committed; and if he thought it would be dishonourable to do what might be taken for a confession, he cannot repent of not having done what he at the time thought to be dishonourable. He may now, perhaps, have altered his opinion, and may be sorry for the error he was in; but there would be a good deal of danger in his coming to our bar to own it, for he is not sure but that the House would insist, and some gentlemen, I believe, would insist upon his justifying our resolution, by confessing himself guilty of what we, by that resolution, have declared him to be guilty of; the consequence of which would be, or at least might be, his lodging for another session in Newgate, and being at the beginning of the next session in the same situation he is at present; for I am persuaded, he never will confess himself guilty of what he is charged with by our resolution of last session.

The rule laid down by his lordship is not therefore applicable to the case now before us; and if it were, it is not, surely, to be enforced against this gentleman by facts of which we have the least tittle of proof; the mention of them seems to be attacking the character and behaviour of the person accused, which is never allowed to the prosecutor, unless the prosecuted puts himself upon his character, which this gentleman has never done; and if they were proved, they could neither strengthen nor weaken the general principle his lordship was pleased to mention, which depends upon the nature of things, not upon facts of any kind. These can only serve for directing us in the application of the principle to any particular case; and for this purpose no fact should ever be mentioned but what has been fully proved; therefore I must concur with my noble friend near me in thinking, that it was not altogether fair to mention them upon this occasion; which is, I think, of itself a sufficient rea-

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son for our not coming to any determination relating to this affair at present; and if it should be entirely dropt, I am sure, it could produce no bad consequence, because no man of common knowledge ever imagined, that it was not in our power, in a future session, to renew an order for commitment made in a former; but as it is an extraordinary method of proceeding, we should never have recourse to it, when the offender has already undergone what most men will think a sufficient punishment for all the offences he was accused of; for even with respect to the vindication of our privileges, we should take care not to give mankind any room to think, that we have acted in too rigorous, or in a tyrannical manner; which, I am afraid, may be the consequence of our agreeing to the noble lord's motion, and therefore I shall conclude with seconding my noble friend's motion for adjourning.

Mr. *Pelham*:

Sir; I was glad to hear from the noble lord who moved for adjourning, that the people are in a quiet and peaceable disposition, because he has a better opportunity to know the disposition of those who may, perhaps, incline to be otherwise, than I have: I hope they will always continue in their present disposition, because I hope they will never have occasion to alter it: during his present majesty's reign, I am sure they can never have any such occasion. But though the people may in general be peaceably inclined, there will always be in all countries, and in this as much as any other, some who incline to be troublesome to the government, and many who incline to be troublesome or unjust to their neighbours. Against these it is necessary that the laws should be enforced; and this sort of people have of late become so daring, and are grown so numerous, that a little severity is, I think, become absolutely necessary. I shall always be far from endeavouring to aggravate the guilt of any offender, but really I must look upon the gentleman, whose case is now under consideration, as one who has not a due respect either for the laws, or the law-givers of his country. His contempt of the laws he plainly shewed in his behaviour towards our returning officer at the last election for the city of Westminster, which, in my opinion, was as fully proved as any fact ever was: and his contempt of this House he has shewed, I think, in the most audacious manner. One part of it we are all witnesses of: I hope no gentleman will say, that we stand in need of any proof for convincing us, that he contemptuously refused to shew us that sort of submission which has always been shewn by every offender that was ever brought before us: as little can we want any proof, that he obstinately continued in that contempt from the beginning to the end of a very long session.

These, I say, Sir, are facts which we are all witnesses of, and can therefore require no proof; and as to his triumphant exit from Newgate, it may be mentioned in this debate, as it has been very properly, because it is a fact that is notoriously known, and because it is the strongest argument that can be made use of for my noble friend's motion. That triumph, I will say, Sir, was something more than audacious, it was really seditious; and if he had any hand in composing or publishing that infamous libel, which was presently after so industriously dispersed over the whole nation, it shewed a fixt resolution to stir up, if possible, an insurrection against the established government of his country. But this I shall say no more of, because it requires, and, I hope, will receive a particular consideration; and because from what we were all witnesses of, or from what is notoriously known, I think every man who has a regard for the honour and dignity of this House, must be convinced of its being become necessary for us to renew our order for the commitment of this gentleman, if he does not submit and beg pardon of this House for the offences he has committed. If we do not, every man without doors will hold our orders in contempt: no man will obey any order we make, unless he inclines to do so, but will abscond during the session, upon a presumption, that the order will not be revived at the beginning of the next session; for that we have a power to do so, I believe no man doubts, because, as I have been informed by gentlemen who are more conversant in these things than I am, there are instances of our having renewed orders for appearance or commitment not only in a new session, but in a new parliament, and even in a new reign. But the question is not now about our power: it is about our will to make use of it; for if it be generally supposed without doors that we never will make use of it, the effect will be the same as our having no such power.

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Sir, if we do not renew our order against such a contemptuous and obstinate offender, it will become the general opinion without doors, that whether we have such a power or no, it is a power that we never will make use of; and upon this presumption, as I have said, no man will obey our orders, unless they be agreeable to his own inclinations. Considering all the circumstances of this gentleman's case, it is not possible for any future offender to suppose, that this House will shew a more lasting resentment against him than was shewn against this gentleman; consequently, every one will suppose, that if he can keep out of the way, or if he can support himself comfortably in prison during that session in which he has been guilty of any contempt, or by which he has been ordered into custody, his punishment will be at an end, because the House either cannot, or will not, in a new session, revive an order for commitment made in the former; and I leave to gentlemen to consider, whether the inconvenience of a poor man's absconding for three or four months, or a rich man's remaining in custody for that time, will be by either thought such a dreadful punishment, as will be sufficient for enforcing our orders, or for preventing our meeting often with the most gross insults.

That the apprehension of such a punishment will not be sufficient, is, in my opinion, Sir, so evident, that I am surprised how any gentleman can fancy any thing more in this affair than at first view appears. Can our punishing a flagrant contempt of our authority have any concern with future elections? Can it deter any man from being active for whomsoever he pleases, provided he keeps his activity within the bounds of law? But, Sir, if we should allow our returning officers to be insulted with impunity, or if we should allow such transgressors to escape without any punishment but that of a few months, perhaps only a few days imprisonment, it would have a most terrible effect upon all future elections; for it would put an end to the freedom of election. The mob would be the returning officer at every election; at least the proper returning officer would be forced to make his return in favour of those two candidates who had got the mob of their side; and if the mob should be pretty equally divided, there would be a battle, and perhaps a great deal of blood shed at every such election. Therefore if our own authority, if the dignity of this House were no way concerned, this consideration alone should prevail with us to revive the order of last session. It was last session proved to the satisfaction of a great majority of this House, that this gentleman had behaved in a very illegal and menacing manner towards our returning officer, because, forsooth, he would not follow his directions in making his return. This, surely, was an offence against the freedom of election, as well as against this House, and an offence for which he deserved to be severely punished; but for this offence he has not as yet undergone the least degree of punishment; for his imprisonment last session was not a punishment for this offence, it was a punishment only for the contempt he shewed in refusing that ceremony, which has always been observed by persons who come to receive any sentence at our bar; and if that punishment was grievous, it was his own fault, because he brought it upon himself by his obstinacy, and might have put an end to it as soon as he pleased, by departing from his obstinacy.

I have called it obstinacy, Sir, and must still call it so, notwithstanding the favourable light in which the noble lord and the hon. gentleman have endeavoured to represent it; for the gentleman himself pretended neither a scruple of conscience nor a point of honour of refusing to fall upon his knees at our bar. If he had made such a pretence, it would have been some excuse for his refusal, and would have furnished us at least with an opportunity to consider, whether we should accept of that excuse or no. As to a scruple of conscience, especially if he had been known to be any way inclined to that sect which the hon. gentleman was pleased to mention, I am persuaded, the House would have accepted of it as an excuse; because most gentlemen here would, I believe, rather laugh at than punish such a ridiculous scruple, though that gentleman knows that some of his friends would be very apt to call such a scruple a perverse obstinacy, and to punish it as such in the severest manner. But as to a point of honour, I cannot comprehend how or in what manner it can acquire such a name; his putting himself in a proper posture, in a posture which has always been usual, and with which we cannot dispense: I say, his putting himself in such a posture, to receive the sentence of this House, was no acknowledgement of the justice of that sentence, or of his own guilt. It was only a

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testimony of that respect, which every man ought to have, and which no man ever yet refused to pay to the Commons of Great-Britain assembled by their representatives in this House. I shall grant, that during the session he could not have expected to be discharged from prison, without petitioning, and acknowledging his sorrow for having incurred the displeasure of this august assembly; and perhaps some sort of acknowledgment of the justice of the sentence might have been insisted on; but supposing he had refused this, and of course had continued in prison during the whole session, he would then have suffered the punishment inflicted by the House for the offence he had been guilty of towards our returning officer, and I am persuaded, no gentleman would in this session have thought of moving for recommitting him: if any had, I am fully convinced, the motion would have been rejected by a great majority of this assembly.

But, Sir, the offence he has now been guilty of, is an offence against the House itself: it is a contemptuous refusal of that respect which is due to us, and this we can never, consistently with our dignity, forgive, until he makes a due submission, and begs pardon in the humblest manner for having been guilty of such a refusal. Therefore I cannot see how any member of this House can be against the motion my noble friend has made. But as a motion has been made for adjourning, I know that the question must be first put upon that motion; for which reason every gentleman who is of the same opinion with me, must give his negative to that question; because if it be carried in the negative, the next question, of course, will be upon my noble friend's motion, which, I hope, will be carried by a great majority in the affirmative.

The original question was then agreed to: and it was ordered, that the Speaker do issue his warrants accordingly.*

Resolved, That the said Alex. Murray do receive the said sentence, for his now being committed close prisoner to his majesty's gaol of Newgate, at the bar of this House, upon his knees.

Ordered, That the serjeant at arms, attending this House, do take the said Alex. Murray into his custody, in order to his being brought to the bar of this House, to receive the said sentence.

A Complaint being made to the House, of a printed pamphlet, intituled, "The Case of the hon. Alex. Murray, esq. in an Appeal to the People of Great Britain, more particularly the inhabitants of the city and liberty of Westminster." The said pamphlet was brought up to the table, and read.

Resolved, *nem. con.* 1. "That the said pamphlet is an impudent, malicious, scandalous, and seditious libel, falsely and most

* The following short account of this Debate is from the Gentleman's Magazine:

Nov. 20. The several Resolutions and Orders of the House, relating to the hon. Alexander Murray, on Feb. 6 last, were read, and a motion made, by lord Coke, "That," &c. Which motion produced a short debate, in which lord Egmont observed, that the Commons assumed a power that the king had not, of punishing a subject without a legal trial, contrary to the nature of our constitution, and the balance of power in the three states that compose it; that this motion was the more extraordinary because it was unprecedented; that notwithstanding a libel had last year been dispersed against the duke, and another against the parliament, yet no farther notice was taken of the authors of either; but that the hon. Mr. Murray had been pursued with uncommon rigour for not complying with an order of this House to receive an ignominious sentence on his knees, which his honour forbad him to obey, and for which he had already been punished even to the hazard of his life. To which it was replied by Mr. Pelham, that the power of the House to punish such open contempt of their authority had never been disputed; that the cases cited by the noble lord were no ways parallel; and that the hon. Mr. Murray had been led away from his duty by a false and mistaken honour, true honour being shewn by magnanimity and greatness of mind in submitting to the sentence of the House with proper resignation. A motion was then made by Mr. Sydenham to adjourn, and the question put; but this being carried in the negative, the question was put upon the first motion, and carried in the affirmative. Complaint was then made of a printed pamphlet, entitled, "The Case of the Hon. Alexander Murray," &c. Lord Coke proposed that those parts only that abused the justice of parliament should be read; but Mr. Sydenham insisted on the whole, which was complied with; and a noble duke, on whose proceedings at the late Westminster election some severe reflections were made in it, being in the House, thought proper to retire; it was resolved, *nem. con.* That the same was an impudent, malicious, scandalous, and seditious libel; and agreed to address his majesty to give orders to the attorney general to prosecute the author, printer, and publisher of the said libel.

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injuriously reflecting upon, and aspersing the proceedings of, this House, and tending to create misapprehensions of the same, in the minds of the people, to the dishonour of this House, and in violation of the privilege thereof. 2. That an humble Address be presented to his majesty, humbly to desire his majesty, that he will be graciously pleased to give directions to his attorney general, to prosecute the authors or author, the printers or printer, and the publishers or publisher, of the said scandalous libel, in order that they may be brought to condign punishment for the same.*"

*Debate in the Commons on the Number of Seamen for the Year* 1752.] Nov. 25. Lord Barrington moved for 10,000 seamen for the year 1752, and that 4*l.* per man per month be allowed for twelve months and nineteen days, including ordnance for sea service; and said among other things, that the situation of our affairs was much the same as last year; that the French were not near so formidable as was imagined by some, nor had any increase worthy notice in their shipping; and that our navy was in as flourishing a condition as could be; yet he thought, upon the whole, we ought to vote 10,000 seamen for the ensuing year. Resolved, "That 10,000 seamen be employed for 1752, and that 4*l.* per man per month be allowed for their maintenance for twelve months and nineteen days, including ordnance for sea service." In support of an augmentation,

Mr. *William Thornton* said:†

Sir; I remember when this matter was considered in the last session, that though some very powerful arguments were urged for having 10,000 seamen then voted for the ensuing year, the noble lord, amongst others, was entirely against the motion, alleging 8,000 to be sufficient, and the other 2,000 were then rejected. I should have liked to have heard such reasons as would have justified this change of opinion; for those which the noble lord hath assigned, are so far from proving the enlargement of the number of seamen necessary, that they rather favour a reduction. I do not doubt but there are such reasons, if it be thought proper to communicate them; and when they are communicated, I do not doubt they will be convincing; but, till then, uninformed as I am, I shall act consistently with myself, and adhere to my rule of judging and determining the last year, as I do not doubt other gentlemen will; therefore to be uniform, I think 12,000 seamen as necessary now, as 10,000 were then; and I move they may be augmented to 12,000 accordingly. Nor need such an augmentation increase the national expence, for a small reduction of an useless standing army will exactly balance the account; and I have always considered the seamen as the most natural guard to this country, and am sure this measure will be most grateful to the people in general, who had rather have 20,000 active seamen who can carry our floating castles all the world over, and render us formidable in the most distant parts of the globe, than 20,000 idle landmen, who only excite terror and aversion at home. I am sorry to differ so widely from the noble lord, with regard to the strength of the French naval force; I have heard they are much increased in their marine, that they have seventy-four ships completely fitted for sea, and thirty more upon the stocks, and are improving every branch of their marine in an extraordinary manner, by the utmost effort of their policy, and their power; and therefore till I am better informed how the case stands, I must be for keeping up a number of seamen sufficient to continue us universal monarchs of the sea. I myself have heard the French say, they dreaded us on that account; for what we are in reality at sea, they are upon land only in idea. Here nature hath pointed out our way to superiority, therefore it should be pursued. Our navy hath done us important and signal services on many occasions, therefore it should be animated and supported; the sea is our proper element, the navy our natural strength and defence: therefore I move, "That the number of seamen for the service of the year 1752 be 12,000."

This motion was seconded by Mr. Beckford, but the original motion was agreed to.

*Debate in the Commons on the Number of the Land Forces for the Year* 1752.*] November 28. Lord Barrington moved,

* "Nov. 26. Went to council at St. James's, where proclamation, with 500*l.* reward was ordered for apprehending Mr. Murray, in consequence of a Resolution of the House." Dodington's Diary.

† From the Gentleman's Magazine.

* From the London Magazine.

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"That a number of Land Forces, including 1,815 invalids, amounting to 18,857 effective men, commission and non-commission officers included, be employed for the service of the year 1752."

Sir *John Hynde Cotton*:

Sir; if I were to speak my real sentiments, or could hope for success in what I think most agreeable to our constitution, I should both speak and act upon the present occasion in a manner very different from what I intend to do. I should not trouble you with any motion, but should content myself with opposing the present, and should endeavour to shew you the inutility and the danger of keeping up in time of peace any number of mercenary troops at all. But as I cannot hope to get a negative put upon the present motion, I shall touch no further upon the inutility or danger of keeping up a standing army, or more properly a mercenary army, than to shew that it is a real evil; and if I can shew this it must be allowed, that the less we have of it the better. As to the inutility of keeping up a standing army, I shall grant, Sir, that in a country where they have no regular militia, where the people are destitute of arms, and unacquainted with all sorts of military discipline, not only a standing army but a very numerous standing army is absolutely necessary: but this necessity is, I may say, self-created; for it is created by keeping up a standing army, and will always become the more absolute, the longer a standing army is kept up; for whilst governors are provided with a standing army, unless they have more public spirit than governors usually have, they will be so far from promoting, that they will discourage every sort of military spirit among the people; and as arms cannot be provided without expence, nor military exercises learned without trouble, the people in all countries are but too apt to save themselves this expence and trouble, if they are left at liberty to do so by their governors.

To this I must add, Sir, what is still worse: when a standing army has been long kept up in any country, it alters the very nature of the people. Let them have been in former times never so much renowned for courage and resolution, they become generally mere poltroons. All the dangerous services of the society are performed by the gentlemen of the army; and the rest of the people being thus unaccustomed to every sort of peril, they shrink, they are confounded at the approach of it, and generally imagine it much greater than it really is. So true is that observation of Horace, made nearly two thousand years ago, that to breed a man a soldier,

> Vitamque sub dio, et trepidis agat
> In rebus.

On the contrary, when men are from their infancy bred up in ease and security, without being ever exposed to any danger, they become naturally effeminate, and are apt to be frightened at their own shadow; and the misfortune is, that as the army must be recruited from the body of the people, it may continue to be formidable to a dastardly people, but it too becomes in a little time contemptible to a brave foreign enemy; of which we had of late years a remarkable example, when the numerous standing army of the Great Mogul was defeated and dispersed by a handful of Persian troops under the famous Kouli-Khan.

From hence, Sir, it is evident, that though a standing army may be at first useful for the defence of a country, yet the certain consequence at last is, that it makes the country an easy prey to an invading enemy. Therefore, to provide for a true and lasting defence, the only method is to be always careful to cultivate a military spirit among the people in general, and not only to encourage but even to compel them to provide themselves with proper arms for their defence, and to breed themselves up from their infancy to all sorts of military exercises. For this purpose they ought to be formed into a regular militia, and every man within such an age obliged to list himself in some regiment either of horse or foot; but such a military power, though the safest and best for the country in general, few governors will be apt to approve of, because it would be ridiculous in them to expect, that a military power consisting of the whole body of the people, would support them in oppressing and plundering the people. They could not then expect to continue longer in the government than they made themselves agreeable to the people in general, and as this would to most governors be a very precarious tenure, they endeavour to provide themselves with a standing army of mercenary troops, by means whereof they may continue to govern the people in spite of the people, which becomes every day the more easy and safe, the less the people are inured to military disci-

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pline, until at last they may oppress and plunder the people as much as they will, provided they do but take care to keep their army attached to their interest, by allowing their chief leaders a share of the plunder.

This, Sir, in most countries was the true cause of a standing army being established; and this alone may shew how dangerous it is to continue such an establishment, even in an absolute monarchy, where the people have no liberties or privileges to take care of. In such a government, indeed, the people are not so much to be blamed, because if the monarch takes it into his head to provide himself with a standing mercenary army, the people have no legal way to prevent it: and though their master may by that means be made more tyrannical, they thereby become no greater, though perhaps more wretched slaves than they were before. But in a country where the people have some liberties and privileges to take care of, their danger is infinitely greater; and as no such establishment can be legally made without their consent, they are not only to blame, but they are mad, if they consent to it upon any pretence whatsoever: for it is providing their government with a power to strip them of all their liberties and privileges, and to reduce them from a state of freedom to a state of slavery, which power will certainly be made use of, as soon as the army is properly modelled for the purpose, and the warlike spirit of the people so much depressed as to render them unfit for making any resistance; and this establishment will more probably and more certainly be attended with tyranny under a limited than under an absolute monarchy; for an absolute monarch with the assistance of a standing mercenary army may be a tyrant, but a limited monarch rendering himself absolute by such assistance must, at least until his absolute power be established, and the spirit of liberty so totally extinguished among the people, that he has no longer any reason to be afraid of it.

The only other circumstance I can think of, which makes it necessary to keep up a standing army in time of peace, is when a country has an extensive frontier to defend, and a neighbour who keeps always a numerous standing army upon that frontier. As the designs of such a neighbour cannot be previously known, nor his faith depended on, and as he may suddenly carry any ambitious design into execution, a country which has the misfortune to have an extensive frontier adjacent to his, must necessarily keep a standing army upon that frontier, at least sufficient to check the progress of the invading enemy, until the people of the interior as well as frontier provinces can assemble at the place appointed for the general rendezvous. These, I say, Sir, are the only two circumstances I can think of, which render it necessary to keep up a standing army in time of peace, consequently in a country such as this, which is under neither of these circumstances, such an army must be altogether useless for any good purpose; it can be of no use but for protecting an oppressive, rapacious administration against the resentment of the people, or for executing and supporting the arbitrary designs of a sovereign against the liberties and privileges of his people; and in this light it must be allowed to be dangerous.

I know, Sir, it will be suggested, that we are now under the first of the two circumstances I have mentioned: that our people are now quite destitute of arms, and strangers to all sorts of military discipline; and I am sorry to say there is too much truth in this suggestion. But the natural fierce, undaunted spirit of our ancestors still remains among the people in general, as evidently appeared from the behaviour of our new raised regiments in the last Spanish and French war; and the tameness of the people during the last rebellion was not owing to their want of courage: I am afraid it was owing to an indifference in many as to the support of our present establishment; for we are not to judge of the hearts of men from their expressions or their contributions at that time; because, I am persuaded, there were many that expressed themselves in a most zealous manner in favour of our present government, and even contributed with great seeming alacrity, who nevertheless would have been glad to have seen the rebels in London, and who perhaps would have joined them as soon as they had entered the city. Another reason why the rebels met with so little opposition, was the people's trusting to our army, for they thought there was no necessity for their venturing their lives, as they paid for a mercenary army, which they thought sufficient for preventing their being brought under any such necessity. These, Sir, I am confident, were the true causes of the rebels making such an uninterrupted progress;



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and both these causes proceed from our having so long kept up a standing mercenary army; for no man of common sense will chuse to risk his being killed or wounded, when he thinks there is no necessity for his exposing himself to such a risk; and this is the true reason why a gang of smugglers, a mob of rioters, or the like, meet with so little resistance from the people: they trust to the troops they hire for these purposes; but this, as I have said, produces at last a fatal effect upon the minds of the people in general, by depriving them not only of military discipline, but of all courage or resolution, and thereby exposing them to be conquered first by their domestic mercenaries, and next by some foreign invader.

Thank God! Sir, our people are not yet reduced to such a scandalous state of indolence and cowardice; but this will be the fatal consequence, if we keep such a numerous standing army much longer in pay, and so much neglect to cultivate military discipline or to propagate a warlike spirit among the rest of the people. To me this consequence already appears to be too near at hand; and therefore, were I to regard my own way of thinking only, I should be for putting a negative upon the motion now before us, because I should be against our agreeing to any number of troops, until our ministers had concurred in framing and passing some effectual law for arming, disciplining, and regimenting every man in the kingdom within such an age, who is not under some bodily infirmity; for that our ministers will ever concur in such a scheme, I very much doubt, unless we make it the condition of our consenting to keep up such a mercenary army, as may be necessary for guards and garrisons properly so called. But as this consequence does not yet appear in the same light to other gentlemen, though I hope it soon will, I shall not at present push my aversion to a standing army so far, but content myself with moving for a less number than is now proposed; for considering our circumstances as an island, and the superiority of our navy, I cannot conceive what reason our ministers can avow for keeping up such a numerous standing army in time of peace. We know what a large number of ships it takes to transport a small number of troops, and what a long time is necessary to prepare, fit out, and victual a fleet proper for this purpose: we know that it is hardly possible for any of our neighbours to prepare for invading us with 10 or 15,000 men, before our having had at least a month's previous notice of their design; and in that time we could recruit our army to at least double the number, besides our army in Ireland, which in that time might likewise be doubled. Therefore I must conclude, that 15,000 men, besides the 12,000 we have in Ireland, are more than sufficient for guarding us against any possible invasion; for with these we might in a month's time have 54,000 regular troops to encounter an invading enemy; and when we have such an army ready to march at an hour's warning, can we think that any power would be so mad as to invade this island with 15,000 or even with 30,000 men, when they know, that by means of our navy, we could shut up the passage, so that their invading army could neither be reinforced nor recalled?

There can, therefore, be no avowable pretence, Sir, for keeping up above 15,000 men, unless it be said, that the majority of the people are so discontented that most of them would join with the invaders of their country. If this, Sir, be the true reason, it is so far from being a reason for keeping up the number now proposed, that it is an unanswerable argument for disbanding every regiment now in Great Britain; for if the people be now so much and so generally discontented, they must either be satisfied by a change of measures, or enslaved by a mercenary army. But it is impossible to suppose, that the people are generally dissatisfied with the measures of our present administration, when those measures are so uniformly approved of by such a great majority of this assembly; for we cannot suppose, that a discontented people would freely and fairly chuse such contented representatives. Therefore, even this reason cannot so much as be pretended, without acknowledging what will not surely be admitted by this assembly, that very few of us have been freely and fairly chosen for the places we severally represent, or that most of us have broke all faith with our constituents, and have acted, ever since we took our seats here, in direct opposition to the professions we made to our constituents when we were chosen, and upon the faith of which they did us the honour to chuse us.

Thus, Sir, it is impossible to assign so much as a pretence for keeping up such a number of mercenary troops in time of peace; but besides the reasons which are

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founded upon their inutility and danger, there is a most urgent reason for lessening their number as much as possible, and that is, the impossibility we are under to defray the charge without encroaching upon the sinking fund, or loading the landed interest with four shillings in the pound. Even with the diminution I am to propose, we must, I believe, take something from the sinking fund for the current service; but, surely, the less we misapply that sacred fund, the better it will be for our public credit, the better for the creditors of the public; because every payment that is made out of it towards discharging the national debt will raise the price of the residue: and towards this we are, I think, in gratitude, as well as honour, bound to contribute as much as we can, as the public creditors have so lately agreed to accept of an interest of three and a half instead of four. Therefore, Sir, for the preservation of our constitution, for the preservation of public credit, for the preservation of our own honour, and for the benefit of the public creditors, I shall conclude with a motion for amending the motion now before us, by putting the words, 15,000, instead of the words 18,857.

Mr. *William Lyttelton:*

Sir; considering what happened but five or six years ago, I am surprised how any gentleman can imagine it possible for him to persuade us, that our standing army is now become useless, when it is so well known, that if it had not been for our army, and the use it was of at that time, we should now have had no constitution, liberty, or property, to contend for. Can it be said, that the people of this country are now better provided with arms, or more accustomed to military discipline, than they were at that time? Can it be thought that the enemies to our present happy establishment are less numerous, or less inclined to overturn it, as soon as they can find an opportunity for so doing? And do not we know from experience, that the absence of our regular troops is an opportunity which they have never failed to lay hold of? Can it then be thought, that our regular troops are now become useless? Sir, they are and always must be of use not only to the friends, but even to the enemies of our present establishment: to the friends of this establishment they will always be of use, and even necessary for the preservation of our lives, our liberties, and our properties; and to those poor deluded people, who from education or from other motives, are enemies to the religion and liberties of their country, our regular troops are of use, because by them they are prevented from exposing themselves to the justice, and compelled to enjoy the mildness of that government, which they have so often endeavoured to subvert, and to which they are still known to be the most inveterate enemies.

I shall admit, Sir, that if it were possible to make every man in the kingdom not only a brave but a disciplined soldier, it would add very much to the strength and security of the nation; but this I look on as an Utopian scheme, which in theory appears charming, but in practice has always been found impracticable, in a country where commerce, manufactures, and industry have been introduced. A warlike spirit is extremely useful and highly commendable; but such is the nature of mankind, that it has always been found inconsistent with the spirit of industry; and from history as well as observation we may learn, that the most warlike people have always been the most idle and slothful. For this reason it has been found necessary to establish a military force, or what is now called a standing army, in all nations, as soon as the people began to turn their minds to arts, industry and manufactures, or if they did not, the consequence has been, their being conquered by some neighbouring state that kept up such a force. The Grecian republics were each for a long time nothing but military establishments: they thought of nothing but war, and they made themselves famous by their warlike exploits; but commerce, arts, and industry were at last introduced, and as neither of them kept up any standing army, they all became very soon a prey to the standing armies of the kings of Macedon. The Romans again were for a long time a military establishment, without commerce, arts, or industry among them. Their city was rather a camp where the people subsisted chiefly by the plunder they had got in war; but before the second Punic war they had begun to be a little civilized, and by that means were near becoming a prey to the standing armies of the Carthaginians; but by the laudable obstinacy of the patricians, that war was so long continued, that the whole people became again a sort of

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standing army, which at last gave them a complete victory over their enemies. However, the danger they had been in taught them the necessity of having always a number of regular veteran troops in their pay, and by such troops it was that they afterwards made all their conquests, and obtained such incredible victories over the numerous armies of the fierce Gauls, Germans, and Scythians.

But to come down to more modern times, Sir; what was the cause of the French victories from the beginning of the reign of Lewis 14, down to the year 1701? Was it not because they carried on their wars with standing armies of veteran troops against militia, or what was little better, new raised regiments, such as by the Romans were called Tirones, which in their days, as we find from their history, were always held in contempt, by their enemies as well as themselves. This was the true cause of all the French victories during the time I have mentioned; but the same thing happened to them as had before happened to the Carthaginians, they carried on war so long, and with such short interruptions, that the armies of their enemies became veterans as well as their own, which gave such a remarkable turn to the fortune of war, in that which was carried on against them in the reign of queen Anne, and which would probably have ended in their utter ruin, as the second Punic war did in that of Carthage, if it had not been for the fatal and wicked change in the councils of this nation. This remarkable change in the fortune of war is such a clear proof of the advantage of keeping up standing armies in time of peace, as can admit of no doubt or contradiction; and we all know, what a change has of late years been brought about in Russia, by their keeping up numerous standing armies in time of peace. In short, Sir, to talk of propagating a warlike spirit and military discipline among the whole people of a trading industrious nation, so as to make them of equal use with standing armies, is, in my opinion, as chimerical a project as was ever thought of by any Utopian statesman; and the very attempt would in this country breed a more general discontent than the most numerous standing army that was ever proposed. What would a farmer say, should he be called in harvest time to attend a review or exercise of the militia at some miles distance from his farm? What would a master tradesman or manufacturer, or a rich shop-keeper say, should he be called for such a purpose from his business, when he had several bales of goods to pack up for a foreign or domestic market? If a small fine only were to be imposed for his non-attendance at any review or exercise, he would never attend; and if a high penalty, with an arbitrary power to excuse, were established, where or how would you lodge that power, so as to prevent its becoming partial and oppressive? Should such a scheme be set on foot, I am persuaded, Sir, we should very soon have petitions from all parts of the kingdom, praying to be relieved from such oppression, and begging for the re-establishment of a standing army.

I am therefore of opinion, Sir, that the keeping up of a certain number of regular troops, even in time of peace, is now become absolutely necessary, and will continue to be so, as long as the people of this country continue to be a trading industrious people, which, I hope, will be until time shall be no more. The only question therefore is, to keep those regular troops under such regulations as not to render them dangerous to the liberties of the people, or to their own: for as to their number, it hardly deserves the name of a question, so far as relates to our liberties; because the greatest number under proper regulations can be no way dangerous to our constitution, and I am of opinion, that a less number than the hon. gentleman has proposed, would be sufficient for overturning our constitution, if we should ever allow them to be properly modelled for that purpose; but whilst they continue to be under the annual consideration and regulation of parliament, it is not, nor ever will be possible to model them so as to make them fit for such a wicked purpose.

For this reason, I think, Sir, that with regard to the number of our standing army, the only thing we have to consider, is the expence; and in that respect I will allow, that in our present circumstances we ought not to keep up a greater number than is absolutely necessary. But as to this question I must confess, Sir, I do not think myself qualified for being a judge; and indeed I must think, that our generals and other chief officers are the best judges; for as they all know the difficulties their country labours under at present, I am persuaded, no one of them would propose or approve of a greater number than he thought absolutely necessary; and as the hon. gentleman who made

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you the first motion, consulted with most of them before he made his motion, I am convinced, that the number he moved for is the least they thought necessary for our security. But even as to my own thoughts of the matter, if I may presume to mention them, I must think the number he proposed the least that can be supposed necessary, when we consider the great number of troops which must be kept in the northern parts of this island, and the number of troops which the most inveterate enemy both of our country and religion always has within view of our coast, or not many hours sail from it; and that a considerable body of those troops may be landed suddenly upon that part of the island, which is not above three or four days march from our capital.

I shall admit, Sir, that when troops are to be several days at sea, and a great number of horse to be embarked, it requires such a number of ships, and so great preparation, that 10 or 15,000 men cannot be embarked and transported, without our having some weeks notice of it, if our ministers do their duty; but when troops are to be but a few hours at sea, and none but infantry and dismounted dragoons or hussars to be embarked, I am of opinion, that the French might land 10,000 men within three days long marches of our capital, before we had the least notice or suspicion of their design; and even with the number proposed by my hon. friend, I doubt much if we can always have 10,000 regular troops in our capital, or within three days march of it. Besides, Sir, what happened in the last rebellion should be a lesson to us, never to have our religion, liberties, and properties depending upon the fate of one battle, which by an unaccountable panic, and many other accidents, might be determined against us; and yet this would be the certain consequence, should we send the whole of our regular troops near London to engage an enemy at not above a day or two's march from it; for if they should by any accident be defeated, the enemy would be in possession of our capital before we could form another army to oppose them; and considering the great number of disaffected, or not well affected persons, we have even in the south parts of this island, I am afraid, that if the enemy were once in possession of our capital, with the Pretender at their head, our religion, liberties, and properties would be irrecoverably overturned.

This consideration, Sir, and this alone, makes me most heartily wish to see a practicable scheme established for our having a well disciplined militia; for though we might even in that case find it necessary to keep up a body of regular troops, yet such a militia would add very much to our security, as it would enable us to augment our standing army as soon as necessity required; and though I think it impracticable to have our whole people armed and disciplined, yet I do not think it impracticable to have in every county a certain number of militia armed and disciplined; therefore, I hope, gentlemen who are more capable than I am, will turn their thoughts that way, and whenever I see a scheme for this purpose, which I think practicable, it shall have my most hearty concurrence.

Mr. *William Beckford:*

Sir; it has often to me been matter of wonder, how such different conclusions should be drawn by different men from the same premises. From the fate of the last rebellion, the hon. gentleman who spoke last concluded, that we must always keep up a numerous army of mercenary troops; whereas my conclusion from thence is, that whilst his majesty possesses the hearts of the people in general, and has a fleet at sea superior to his foreign enemies, he will always have time enough to raise or bring over such a number of troops, as will be sufficient for defeating any little insurrection, that can be raised against him by the disaffected: and consequently, that the keeping up such an army in time of peace, is absolutely unnecessary. The hon. gentleman says, that a reduction or diminution of our mercenary troops is an opportunity, which the enemies to our happy establishment have never failed to lay hold of; but suppose this were true, it is, surely, a very wrong way of arguing, to say, that because they have failed in two attempts of this kind, therefore they will undertake a third. As the disaffected have been defeated in two attempts against our present establishment, both undertaken when we had but a very small number of regular troops in the island, and the last surprisingly conducted as well as surprisingly made, I am either quite mistaken as to that method of reasoning called common sense, or I must conclude, that they will never venture a third without some other encouragement; and indeed, I am of opinion, that without some other encouragement they would

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never have ventured either of the two last; for no man of common discretion will ever rise in rebellion against an established government, if he has nothing but the people of the country to trust to, unless he has the strongest assurances of being joined by the majority of the people; therefore I am fully convinced, that in both the last rebellions, the rebels had at first something else to trust to than that of the government's not having at the time a numerous army of regular troops in the island; and if we consider what it was they had at both times to trust to, and how they came to be disappointed, it will furnish us with the strongest argument against our keeping up a numerous army of mercenary troops.

At the time of the rebellion in 1715, many of us must remember, and all of us know, Sir, that the people in general appeared to be highly discontented: the church being in danger was an opinion that generally prevailed; and this opinion, however ill grounded, had rendered the people in most places discontented, and in some places riotous. This discontent was taken for disaffection by those that were really disaffected; and from thence they conceived hopes, that upon their appearing in arms against the government, they would be joined by the greatest part of the people; but in this they were disappointed, for though the people were dissatisfied, they were not as yet become disaffected: though they were afraid of the church being overturned by the dissenters, they were more afraid of its being overturned by the papists; and therefore, instead of joining with the disaffected, most of them joined with the government, and thereby enabled our ministers to raise an army of regular troops, time enough for opposing and defeating those that had taken up arms in favour of the Pretender.

Again, Sir, at the time of the last rebellion, it is certain that the discontents of the people were almost universal: bribery and corruption, and the danger our constitution was from thence exposed to, had for some years been sounded high in the ears of the people, and, I believe, no man will say, that this apprehension was quite groundless, or that any effectual regulation had been made for removing it. This discontent was again mistaken for disaffection, and this was what the Pretender's party chiefly trusted to at the breaking out of the last rebellion; but as the people had then hopes of providing, by some new regulation, against the danger of bribery and corruption, they were not for trying such a desperate remedy as that of overturning our present establishment, and therefore they joined most heartily, and almost unanimously in its support.

At both these times, Sir, it is certain, that the rebels had some hopes of being assisted by a large body of regular troops from France; and in the last rebellion they had not only hopes, but, I believe, the most solemn promises, which would, without doubt, have been complied with, if the people had not so unanimously declared for the support of our present establishment, or if we had not been able to send a fleet to sea superior to any thing the French could send against us.

Thus, Sir, we may see, that in both the last rebellions, the disaffected had something else to trust to than merely that of our not then having a numerous army of mercenary troops on foot; and until they have more infallible hopes of one or other of the supports I have mentioned, than they ever yet had, we may be assured, they will never again venture to rebel against our established government, even supposing we should reduce our army to what is properly meant by guards and garrisons: whereas, should they ever have certain and well grounded hopes of either of these supports, much more of both, no army we can keep up could prevent their rebelling, or secure us against their success. Let us then take care, Sir, never to give them any well-grounded hope of either of these supports; and the method to do this is not, I am sure, to keep up a numerous army of mercenary troops in time of peace. On the contrary, it is almost an infallible method to furnish them not only with the hopes, but the certainty of both; for by keeping up such an army we must continue to oppress the people with taxes, and with the quartering of soldiers, which will certainly continue their discontent, and that discontent will as certainly at last deviate into disaffection, or will become so violent as to drive them into any measure for getting rid of the present oppression. At the same time, Sir, the expence of keeping up such a number of troops will render it necessary for us to be as saving as possible upon the head of our navy, and by this means we shall probably lose our superiority at sea. If France had a navy superior to ours, and if at the same time the majority of the people were disaffected to our present es-

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tablishment, or so much discontented as to be indifferent about its support, can we suppose, that our government could subsist a moment longer than it truckled to France, in every thing relating to trade and commerce? And if this should ever come to be our unfortunate situation, could we expect, could any true Englishman desire, that such a government should be supported by a standing army of mercenary troops? Sir, it might by an army of French or foreign troops; but I am very sure, it would not by an army of English soldiers; for I hope, no Englishman will ever be so mercenary as to support a government, that has brought itself under a necessary dependance upon France.

I hope, Sir, it will now appear, that no argument can be drawn from any past rebellion that has happened, or from any future rebellion that can be apprehended, for keeping up a numerous army of mercenary troops in time of peace; and indeed, the consequence of keeping up such an army is so fatal, and at the same time so certain, that it can be over-balanced by no other danger either real or imaginary, as must appear evident to every man, who considers the history of such armies in this or any other country. In this country, Sir, we may from our histories be informed, that such armies were never kept up but by princes who aimed at establishing arbitrary and absolute power; and the same histories will inform us of the unlucky fate of all those princes. King John endeavoured to grasp at despotic rule by keeping up an army of lansquenets, and of such mercenary Englishmen as were villainous enough to engage to serve his tyrannical purposes; and by this army he so oppressed his people, that he at last forced them to resolve to submit themselves to a foreign yoke, rather than to the heavy yoke which their own sovereign was endeavouring to put upon their necks: but every one knows the fate of that unfortunate monarch, and how miraculously the total ruin of his family, as well as his country, was prevented. Another attempt of the same kind was made by Richard 2, who with 3,000 men only of mercenary troops, surrounded and compelled the parliament itself to make a sacrifice of the liberties of their country; but though the people may for a time dissemble, they will never heartily join in such a sacrifice, and accordingly it cost that prince both his crown and his life, and laid a foundation for those depopulating and cruel wars, which afterwards ensued between the Houses of York and Lancaster, in all which wars the army was disbanded as soon as the war was at an end; for the prevailing party always chose to be ready to risk their own lives and fortunes in defence of the sovereign they had established, rather than to risk the liberties of their country, by providing him with a standing mercenary army for that purpose.

How different, Sir, is our way of thinking now from what it ever was before the Revolution, which is said to have established our liberties upon a solid foundation? Queen Elizabeth disbanded her army the very next winter after the defeat of the Spanish armada, notwithstanding the powerful party she had to contend with, and the numberless plots that were daily hatching against her. In the beginning of Charles the 1st's reign the projectors of a scheme against our liberties desired a standing mercenary army but of 3,000 men, to bridle, as they called it, the impertinence of parliament; and after that king's tragical death, nay, I believe, presently after he was made a prisoner, the army was reduced below the number we have now on foot, which was then thought sufficient, by the usurpers of the sovereign power, to defend them against our nobility as well as our royal family. Such an aversion had we to any sort of a standing army, that in Charles the 2nd's time a few guards were voted to be a nuisance, even by that parliament, which in derision was called the Pensionary Parliament. Before the Revolution a parliamentary sanction could never be obtained for keeping up any number of mercenary troops in time of peace; and even after such a sanction began to be obtained, the number never exceeded 8,000 men, before the accession of his late majesty; for the army allowed to king William after the peace of Ryswick, did not amount to above that number: and after the peace of Utrecht queen Anne desired no more for the defence of the whole united kingdom, though there was a most formidable party, who had openly in parliament declared against her then administration, and if some people are to be credited, were preparing to declare openly against her in the field.

Let us next look abroad, Sir, and if gentlemen can point out to me any one state that has long preserved its freedom, after allowing a standing mercenary army to be kept up in time of peace, and in the



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heart of their country, I will agree to the keeping up of any number they please in this island. In Sweden, Sir, their freedom is of such a modern date, that it cannot be brought as an example; and besides, they keep the greatest part of their army in Finland. In Venice, which is rather an absolute aristocracy than a free republic, they keep all their troops in their conquered provinces, without ever admitting any into their city: and notwithstanding this, they are so jealous of their army's being turned against their liberties, that it is never put under the command of a native, and consequently the general can never have any influence upon the civil power. And in Holland they keep their whole army in their frontier towns; it being likewise a rule with them, not to admit any troops into those cities which have a share in their civil government; and when they depart from this rule, upon any pretence whatsoever, as indeed they have a little of late, I may prophesy, that their liberties will not long survive.

But gentlemen say, Sir, that we can be in no danger from our army, because it is not numerous enough to subdue our liberties. This I am surprised at, considering what I have already said about the army in Richard the 2nd's time, about the army proposed at the beginning of Charles 1, and about what was actually done by the army that brought that unhappy prince to the block. Sir, the body of janissaries, by which the arbitrary power of the Turkish sultans, over such a great part of this globe, is preserved and enforced, is not much more numerous than the army we have now on foot; and the Pretorian bands, which so long supported the power of the tyrannical Roman emperors, and so often butchered the sovereigns they had sworn to serve, were not so numerous as the army we now have in this small island, which was but a very inconsiderable part of that vast empire. How then can it be said, that our present army is not sufficient for subduing our liberties, should it be ever made use of for that purpose? With regard to the number, it is already but too sufficient; and the longer it is kept up, the more sufficient it will be, because the people will every day become more cowardly, and more ignorant of every sort of military discipline.

We have now, Sir, nothing to depend on, but the honour and generosity of those who are employed as officers in our army; and indeed, I have so good an opinion of them, that I do not think our liberties can ever be in danger, whilst they continue in command; but they are all mortal, and may be succeeded by men of very different principles; for that of our officers being men of family and fortune, is no security for their principles: such men may be governed by their ambition or their avarice, as well as men who have neither family nor fortune; and our sovereign will always have it in his power to flatter both these passions. The French armies have always been, and still are commanded by gentlemen of family and fortune, gentlemen who in other respects have always shewn themselves to be men of honour, and who upon every occasion have shewn that they are men of true courage; yet those armies have not only subdued the liberties of their country, but now support the sole and absolute power of their Grande Monarque; in so much that passive obedience and non-resistance, which was formerly attempted to be made a point of religion in this country, is now in France made a point of honour; and as there is a fashion in principles as well as every thing else, I am much afraid, this fashion may at last be introduced into this country; for the behaviour of some gentlemen amongst us has lately brought patriotism into contempt, and when the principles of liberty become ridiculous, those of passive obedience will of course become fashionable: whether this revolution in our principles can contribute to the security of our present happy establishment, or whether it may not usher in a revolution of government, I shall leave to the wisdom of our wise ministers to determine.

I know it may be said, Sir, that as the army comes annually under the consideration of parliament, and depends upon the annual sanction of parliament, if it should ever appear, that the officers of our army are such as have a greater regard for their pay and preferment in the army than for the liberties of their country, the parliament would certainly refuse its consent for the continuance of the army. But I have two reasons for not depending upon this security: the first is, that men's principles are never to be judged of from their professions: they can never be known until they come to be tried; and therefore though the parliament may suppose all the officers of the army to be men of true honour, and a sincere regard for the constitution, they may find themselves mistaken, should they ever come to a rup-

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ture with their sovereign, or his favourite minister, so as to oblige him to dissolve or prorogue them before passing the Mutiny Bill; for they might, perhaps, find the officers of the army not only continuing in their command, but raising the land and malt taxes without their authority: do we not know, that the army which was raised by the parliament in king Charles the first's time, for the preservation of our liberties, and which could not but be supposed to have a great regard for both, yet that very army turned this House out of doors, as soon as it began to disoblige their general, and not only established the absolute power of that general, but kept him in the possession of it as long as he lived. Another reason is, that as our sovereign may dismiss and prefer the officers of our army at pleasure, it may in a few months be so garbled and modelled as to be fit for any purpose he designs. That this may be done is likewise confirmed by experience; for general Monk in a few months so modelled the army under his command, as to make that army which had beheaded the father, instrumental in restoring the son to the throne of these kingdoms; and whatever high opinion we may have of those who are at present the officers of our army, it is certain, that the common soldiers are generally the idlest, the meanest, and the lowest of the people; therefore we cannot suppose, that any of them would run the risk of what would be called mutiny, if the sovereign and most of his officers should resolve to keep the army on foot without the consent of parliament.

There is therefore, I think, nothing more certain than that the substance of liberty will be in a few years annihilated, if a standing army of mercenary troops be kept up in this island for some years to come, in the same manner as it has been for several years past. In order to amuse the people, the shadow may perhaps be preserved in this kingdom by our arbitrary and tyrannical rulers, as it was at Rome by their imperial tyrants: we may have parliaments, we may have popular elections: they had both at Rome after the extinction of liberty as well as before; but here as there, they will serve only as instruments of oppression, and to render that oppression the more grievous, the more provoking; for no man of worth or honour will attempt to get himself chosen into this House, or to appear in the other, after it becomes certain, that he may thereby expose himself to the resentment of a revengeful minister, but cannot expect to be able to serve or save his country. But it now seems to be the opinion of some gentlemen amongst us, that we must submit to be the slaves of our own sovereign and his army, in order to prevent our being made the slaves of some foreign power, or at least, that we must submit to be the slaves of the royal family now upon our throne, in order to prevent our becoming the slaves of that which is now in exile. As to our being made the slaves of some foreign power, it is very strange that we should, for so many ages, have been able to preserve ourselves without any standing army of mercenary troops, and even when we had no fleet, or at least, not a superior one, to defend us, and should now be unable to preserve ourselves without such an army, when we have, and may always have a fleet superior to that of any one of our neighbours. To justify this paradoxical opinion, two doctrines have been advanced, neither of which I can subscribe to. In the first place, it has been advanced, that among a trading industrious people it is impossible to preserve military discipline, or to cultivate an universal warlike spirit. And in the next place, it is said, that we may be invaded by a foreign army, before we can have time to raise an army for our defence.

As to the first, I shall grant, Sir, that such a punctilious military discipline as may be necessary for a modern review, cannot be preserved among an industrious trading people; but I will insist upon it, that all that military discipline, which is necessary or useful for action, may be preserved among any sort of people, and in this I am justified by the behaviour of those we called banditti in the late rebellion, as well as by the history of the Swiss cantons ever since the establishment of their commonwealth; and we know, that in the beginning of the Dutch commonwealth, their militia defeated the regular troops of Spain, and at the same time they introduced and established that commerce, and those manufactures, which have since made them such a mighty people. Mankind, Sir, are naturally brave and warlike: it requires art to render them cowardly and effeminate, and this is the art which has always been practised by absolute governments, where the utmost care is taken, that no man shall have either arms or courage, but such as are in



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the pay of the government; therefore, if we should resolve to cultivate an universal warlike spirit among the people, there would be no occasion for penalties; let it but appear, that no man could acquire any character in our country, or any share in our civil government, without being a brave and disciplined soldier, and I will undertake, that every man would attend our stated military exercises, without any penalty upon his non-attendance; for there would be no occasion for making those exercises so frequent as to interfere with his other business; and I must be of opinion, that a part of every Sunday would be better spent in a man's learning to defend his country, than in sotting at the ale-house, or sauntering in the fields, as most of our people do at present.

Then as to any sudden invasion, Sir, can it be supposed that, even in the state we are in at present, any foreign prince or state would think of conquering this island with 10 or 20,000 foot soldiers, and without expecting assistance from any part of our own people? Suppose 20,000 regular infantry were landed at Dover, or near that place, there are so many defiles and passes between it and this city, that many of them might be cut off, and their march very much retarded, by the militia of the country; and before they could reach this city, we might have 100,000 men regimented, armed, and ready to receive them. I must therefore conclude, that while we are masters at sea, no foreign power will attempt to invade us, unless it be with a very numerous army both of horse and foot, provided with artillery, and every thing proper for an army; and for the transporting such an army, so great preparations must be made, that it would be impossible to prevent our being informed of it some months before it could put to sea. Our histories inform us, that the famous Spanish armada, which consisted of such a vast number of ships large and small, and was above three years in preparing, had but 22,000 men of land forces on board, and that king William had above 600 ships for transporting no more than 14,000 men. These examples ought to convince us, that we may depend upon that which is our natural security: I mean, our being surrounded by the sea, and protected by a powerful navy. This was our protection in the last war, even when a successful rebellion had by our misconduct got possession of a great part of the island; and it at last procured us a peace, such as it was, when by the misconduct either of us or our allies, our enemies were every where at land triumphant. By our navy we destroyed the French commerce, which lay bleeding at every vein, and thereby dried up all the resources by which they could propose to carry on the war; and by our New England militia we made that conquest in America, which made them glad to restore all the conquests they had made in Europe. When I reflect, Sir, upon our conquest of Cape Breton, and the intrepidity our common militia shewed upon that occasion, I am really surprized how any gentleman can be so fanciful as to apprehend our being conquered by a foreign power, unless we keep a numerous army of mercenary troops continually in pay.

This, Sir, I am so little afraid of, that if the question were for disbanding the whole army we have now on foot, I should give my vote for it; and therefore I cannot in the least hesitate with respect to the small reduction now proposed.

Dr. *George Lee:*

Sir; I must confess, that the hon. gentleman has said as much as can possibly be suggested against our keeping up any number of regular troops in time of peace; but though I am of opinion, that all he has said may be easily answered, yet as this is not the question now before us, I shall not take up your time with making a particular answer to every argument he was pleased to make use of; for I think it is granted, upon all hands, that some certain number of regular troops is not only convenient but necessary for us, even in time of peace; and whilst our army consists of none but natives, commanded by gentlemen of the best families amongst us, and under the annual controul of parliament, I shall never be under the least apprehension for our constitution, or for any of our just and legal liberties; for by such an army the liberties of no country were ever destroyed, nor was any tyrannical power ever supported; but factions among the people, or mutinies among the troops, have often furnished princes with a pretence for calling foreign mercenaries to their assistance, and establishing chambers of janissaries; and by such I shall grant, that tyranny may not only be introduced, but supported.

This I could shew, Sir, from the histories of all countries, where despotic rule and arbitrary will has been, or is now es-



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tablished; but as the only question now is about the greater or lesser number of regular troops, which we are to keep up for the ensuing year, I think, I have no occasion to enter minutely into this argument. A hint of it I think sufficient, because every gentleman's own reading may furnish him with a proof of what I have thus in general advanced. Now, Sir, with regard to the question, whether we should keep up 15,000 or near 19,000 men, for the ensuing year, it is certain, that the number of men to be kept up for any ensuing year, must always depend upon the state of security, or danger, we happen to be in when this question comes to be determined. Last year I was for no more than 15,000 men, and if we were now in the same state of security we were in at that time, I should now be for no more; but the death of that great and amiable prince, whom I shall always bemoan, and in which I am confident I shall be joined by every British subject, who has any regard for the religion or liberties of his country: I say, Sir, the untimely and unfortunate death of that beloved prince has thrown us into a state of danger, against which we ought to provide, and against which we cannot, in my opinion, provide, by keeping on foot a less number of regular troops than the highest now proposed.

When I talk, Sir, of the dangerous state we are now in, I believe every gentleman will suppose, I mean the danger of our falling under a minority. Thank God! his present majesty is at present in perfect health, but to our misfortune he has but one life to lose; and as that hopeful young prince, his grandson and successor, is but an infant, we have consequently but one life between us and a minority. In this kingdom, in all kingdoms, Sir, a minority is a time fraught with faction, and often involved in confusion. Should such a mischance befal us, what tumults or invasions might we not be exposed to, if at such a dangerous time we had not a sufficient number of regular, well-disciplined, and veteran troops on foot? We know, that we have at home a numerous body of men, who are by principle enemies to our present establishment: we know, that we have abroad a powerful people, who have been the perpetual enemies of our nation: Can we hope, that neither would take advantage of such a favourable conjuncture for involving us in war and bloodshed? Sir, I do not in the least question, but that both have already laid the scheme, perhaps in conjunction, and are now preparing to carry it into execution the very moment the opportunity offers. Providence will, I hope, be so kind to us, as to preserve his majesty's life until his next successor comes of age; for upon this alone our tranquillity now depends; but we should deserve to be deserted by Providence, should we, in the mean time, neglect to provide, in the best method we can, for our own security; and this we can no way do but by keeping on foot a sufficient standing army.

Our circumstances being thus, Sir, very different now from what they were last year, I cannot justly be accused of any inconsistency, on account of my being now against that reduction of our land forces, which I voted for last year. But it is not only with respect to our domestic concerns, that our circumstances are very different: two events have since happened abroad, which add considerably to our danger: the death of the prince of Orange is an event of the utmost consequence to this nation: our best and most natural allies, the Dutch, are thereby brought under that misfortune, which we have so much reason to apprehend: they are brought under a minority; and if this unlucky event should occasion any disturbances in that country, can we continue in quiet? Are we not in honour, in interest, and even from natural affection, obliged to assist that wise princess, who has now the government thereof, in the name of her infant son? For this purpose, we must have a body of regular troops always ready to embark; for should we be altogether unprovided, she might be undone, and all our friends there destroyed, before we could raise a regiment for their assistance.

As our circumstances with regard to foreign affairs are thus altered, Sir, by the death of the prince of Orange, so they are very much altered by the birth of the duke of Burgundy, which is the other foreign event I have mentioned; for this adds greatly to the strength of France, and when the strength of that kingdom is increased, we ought not, surely, to diminish the strength of this. As this event, Sir, has effectually secured the domestic tranquillity of that kingdom, and added weight and influence to the government thereof, it may probably set them upon forming ambitious projects, which they would never otherwise have thought of: and as they can form no ambitious project but what must be of the most dangerous conse-

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quence to this nation, I must look upon the birth of this young prince as a strong argument for our continuing much the same number of troops in our pay, which we had last year, and indeed, for increasing the number, if we could possibly spare the expence: therefore, I hope, those gentlemen with whom I joined last year in such a motion as this now before us, will excuse my not joining with them upon this occasion.

Colonel *Daniel Leighton:*

Sir; the hon. and learned gentleman who spoke last, has given such convincing reasons for not reducing our army for the next ensuing year at least, that I rise up rather to testify my approbation, in the most open manner, of what he said, than with any design to add weight to his arguments. However, as I am up, and as I have been for many years conversant in the military, I shall observe, that it is amongst soldiers a maxim, that as you enlarge the works of any fortified place, you ought in proportion to encrease the garrison; and therefore those gentlemen, who were last year for our keeping up but 15,000 men, ought this year to be for our keeping up a greater number, because we are about enlarging our works, by the new military road we have begun to make between Carlisle and Newcastle; for that road will be of no signification, unless you keep a body of troops always upon it. On the contrary, it will rather be of advantage to the rebels, should they ever again attempt to invade England: whereas, if you keep one regiment of foot at Newcastle, another at Carlisle, a third at Berwick, and a regiment, or a few troops of dragoons upon the road, I will undertake, that no Scotchman shall ever again enter England, as an enemy to our established government. This, Sir, is a consequence of such advantage, as will fully justify the expence of keeping up a few more troops than might otherwise be necessary; and without this, I should be against our reducing our army, until we see what alterations may be produced in the affairs of Europe, by the three great events taken notice of by my hon. and learned friend.

The Earl of *Egmont:*

Sir; I must beg leave to differ from my hon. and learned friend, for I hope he will always allow me to call him so. No man can have a more lively sense than I have of the loss the nation must sustain by the death of that amiable prince, whom my learned friend most justly bemoans: no man can more sincerely join with him in bemoaning that loss. The nation will certainly be thereby deprived of many blessings, but I cannot think that we are thereby thrown into such a danger, as cannot be provided against but by keeping up a more numerous army than we should otherwise have occasion for. The danger of our falling under a minority is, I shall grant, more possible than it was before that melancholy event; but thank God! it is not in the least more probable: for his majesty has now as good a chance for living five years, as he had last year for living six: and supposing this danger to be more probable as well as more possible, I cannot think, that our keeping up a numerous standing army of mercenary troops is the proper way to provide against it. The most proper way certainly is, to establish such regulations of government, as may prevent any confusion, in case such a fatal accident should happen; and this we have already done in the most effectual manner that was thought possible, by those who now appear to be the advocates for the largest number of troops. Whether it was the wisest regulation that could have been established, I shall not now dispute; but this I will say, that the greater our army is, the less wise that regulation must appear to every one, who maturely considers all circumstances; and this rather confirms than weakens the opinion I was of last session, with regard to the number of troops we ought to keep up in time of peace.

This, Sir, is my way of thinking, and yet I shall not accuse my learned friend of any inconsistency of conduct; for with regard to any point in politics, a gentleman may alter his opinion without the least inconsistency: the public good is the point that every one ought to steer by; and upon an alteration of circumstances a gentleman may think that to be for the public good, which he formerly thought inconsistent with it; therefore the inconsistency would be, not in altering his opinion, but in obstinately adhering to it; but in my way of thinking no such alteration of circumstances has happened as can warrant an alteration of my opinion, with respect to our army. The danger of a minority I have the pleasure to think highly improbable; and were it to happen, I must think that 15,000 men is sufficient to guard against any domestic disturbance

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that might from thence ensue. More than that number will rather increase our danger than guard against it; because it will alienate the affections of the people from our present happy establishment. And as to any foreign danger, let us consider, that our army, though reduced as now proposed, would in its present form be a stock, on which fourscore thousand men might soon be ingrafted: we have officers enough for that number, and private men would in a short time be found, if the government possessed the hearts of the people; therefore neither of the foreign circumstances mentioned by my learned friend can be made use of as an argument for our keeping up above 15,000 men. The birth of a duke of Burgundy is so far from being an argument for our increasing our army, that it should rather induce us to diminish our army, in order to increase our marine. As to naval power and a number of seamen, we may contend with France: I hope, we shall always take care to be superior: but as to our land armies we cannot pretend to contend with that kingdom. Such a contest would be like the frog in the fable swelling itself till it bursts; for by such a contest we should soon burst our constitution, but we should never be able to come up to the size of our rival.

Then, Sir, as to the unfortunate death of the prince of Orange, it has not in the least weakened the government of that republic. The royal princess who has now the government in her hands, has shewn so much wisdom, that it has rather gathered new strength; and has furnished us with a recent proof, that a minority is not always such a dangerous circumstance as it has been represented by some gentlemen in this debate. But suppose she had not behaved, or should not continue to behave in such a prudent manner, are we to defend the Dutch government against the Dutch themselves? Are we to keep 4 or 5,000 additional troops on foot for that purpose? Sir, if such a thing should happen as a civil war, or a revolution of government in Holland, I doubt if it would be wise in us to send any of our troops thither; for if we did so for the support of one side, we might depend on it, that France would send double the number for the support of the other. We know what was the consequence of our taking the Danish troops into our pay, and ordering them to be in readiness for a march, upon the death of the emperor Charles 6. We know that from thence France took occasion to form a pretence for marching her numerous armies into Germany. Therefore I doubt much, whether it would be prudent in us to send any troops to Holland, even supposing a civil war should happen in that country, which the wise and steady conduct of the princess governante will probably prevent; but admitting the contrary, does not every one know, that in four or five days time we can add 4 or 5,000 men to our army, which is the shortest time that can be supposed necessary for providing transports? And out of 19 or 20,000 men, could we not spare to send 9 or 10,000 to Holland, in case it should be thought prudent and necessary for us to do so? Therefore, as such an event would probably involve Europe in a general war, we should, in the mean time, by a reduction of our army, save as much money as possible, that we might engage in that war with the greater vigour, and with the greater ability to assist our allies and to defend ourselves.

Thus, Sir, in my way of thinking, every alteration of circumstances that has happened since last session, is rather an argument for my continuing, than for my altering the opinion I was of last session, with regard to the number of troops that ought to be kept up in this kingdom in time of peace; and I was surprised to hear the hon. gentleman who spoke last, mention the new road from Newcastle to Carlisle, as a reason for keeping up a greater number of troops than would otherwise be necessary. As the hon. gentleman has had great experience, he certainly understands the military as well as any gentleman in this House; and if he reflects never so little, he must admit, that by that road we shall rather contract than extend our works, because we shall render the southern part of this island less liable to a surprise from the north, and consequently can have no occasion for keeping up such a number of troops in the interior parts either of England or Scotland, as we had formerly. Will that gentleman say: will any man that understands the military say, that a well fortified place requires as numerous a garrison to defend it, as a place that has few or no fortifications; or that the repairing or strengthening the interior fortifications, is an enlargement of the works of a place? It may as well be said, that the Carlisle road has added to the extent of the island of Great Britain, as to say, that it has enlarged the

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works which we are to defend; for the whole island we are to defend, consequently nothing within the island can be called an enlargement of our works; and the chief inducement for our being at the expence of making that road is, that we may not be obliged to keep up such a number of regular troops in Scotland, as may at last render the whole country disaffected; for if it were, I believe, the hon. gentleman would find it difficult, with his three regiments of foot, and a few troops of dragoons, to undertake, that no Scotchman should ever again enter England in a hostile manner. That road may contribute towards preventing our being again surprised, as we were lately, by a sudden insurrection of the disaffected in that country, and consequently will very much contribute towards preventing any such insurrection, because they can hope for no success, unless it be by surprise; therefore we may safely diminish the number of regular troops kept up in Scotland; and the more we diminish them, I am confident the number of the disaffected will every day be the more diminished. Whereas, if we think only of bridling the disaffected by keeping a great number of troops in the country, we may render the whole disaffected, and in that case, as they will always have a great many friends in England, a rebel army from Scotland may, perhaps, hereafter enter England, with the same success they did in the reign of the unfortunate king Charles 1.

I think, Sir, I have now answered all the arguments made use of by those gentlemen who last session agreed with me in opinion, but have since altered their opinion; and now I must add a few words by way of answer to those who were last session, as well as this, for our keeping up a more numerous army than I think we have any occasion for in time of peace. Some of these gentlemen really seem to think, that no army can be of any dangerous consequence to our liberties; and in support of their opinion they have ransacked almost all histories both ancient and modern; but all to no purpose; for all histories are against them, and every example they have brought from hence proves the contrary of what they intended; for a civil government must always be chiefly supported by the civil power, otherwise it soon ceases to be a civil government: a small military force may be brought in aid of the civil power, and may continue subservient to the civil power; but if you increase that military force so as to make it a superior, or even but an equal match for the civil power, it will not long continue subservient: it will no longer continue so than until it happens to get a general, or commander in chief, who has ambition enough to make himself master of the civil power; and as soon as he has done so, he may continue the forms or the shadow of a civil government, as Julius Cæsar did at Rome; but from that moment the government will be a military government, which is always absolute and often tyrannical. This we seem to be in danger of from a prevailing opinion, that every branch of our civil government must, as to the executive part, be supported by a military force; and for this purpose we have increased the latter so as to make it, I fear, an over-match for the civil power, in case any contention should unfortunately happen between them. Our military force, I know, cannot legally be kept up without the consent of the civil power, that is to say, without the consent of parliament; but if the parliament should refuse its consent, and the military should at the same time think itself an overmatch for the civil power, are we sure, that it would not resolve to keep itself up without any such consent? Are we sure, that a majority of the officers would throw up their commands and their pay, when solicited to the contrary by a favourite general and an ambitious sovereign? This, I confess, I am far from thinking myself sure of, and therefore I shall never be for keeping up any greater number of troops than just sufficient to guard us against any sudden, unexpected invasion, and to support the civil power upon some extraordinary occasions.

But, Sir, the danger our constitution may be exposed to, is not my only reason for being against our keeping up any greater number of troops: œconomy is another reason, and a reason which ought to have great weight in our present circumstances: in my opinion, it is a reason of such weight, that I shall be willing to come to a compromise with the hon. gentleman over against me. At this proposal I see he is surprised; and I do not wonder at it; for he has been very little accustomed to public negociations. But in this there is to be no secret article; for in short, it is this: if he will agree to reduce the expence, I will agree to the proposed number of troops. It is astonishing, but it is true, that our army, small as it is said

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to be, and as indeed it comparatively is, costs us near as much as the whole expence of the numerous armies of France, or of those of our chief ally the House of Austria; therefore it is certain, we may very much reduce the expence without reducing the number of our army; and I think, we should begin with those troops that are the most expensive. I know, it is said, that the grandeur of the crown must be supported; but our present sovereign has shewn that he despises such grandeur as consists in nothing but expence, by disbanding two of the troops of the guards, and reducing all the regiments of horse, except one, to dragoons; and I cannot see why the reduction of our expence should stop here. A much greater reduction may still be made in our guards, and the remaining regiment of horse may likewise be reduced: several of our regiments of foot may be disbanded; and by adding private men to the rest, we may make up the number of our army to what it is at present: by these methods, and by having no staff, which is quite useless in time of peace, we may save yearly above 140,000*l.* which is a saving that in our present circumstances highly deserves our attention.

Upon these terms, Sir, I propose to negociate; but I expect as little success in my negociation, as our ministers have had in most of their late negociations; and my expectations are the same from any opposition I have made to the measure now under our consideration. I know that all opposition is at present in vain; and for my own part, I believe, I shall not trouble you with much more of it. But upon the present question, I thought myself bound to speak my sentiments openly, in order to prevent a wrong construction being put upon my silence. Therefore if I should be hereafter silent, I hope it will not be supposed to proceed from my having altered any of the opinions I have before declared in this House, but from my unwillingness to disturb that unanimity which I see so constantly prevail; and if the unanimity within doors proceeds from the unanimity of the people without, I am sure, we can have no occasion for a numerous standing army to guard against the danger of any domestic disturbance: as little can we, I think, have occasion for such an army to defend us against any foreign invasion; for we can never be in danger of any such, whilst we continue in the present humour of negociating; and as we are like to remain for some time in this humour, I cannot but think, that 15,000 men will be fully sufficient for the service of the ensuing year.

Mr. *Henry Pelham:*

Sir; I never rose up to speak upon any subject with more concern than upon that now under consideration. The keeping up of a standing army in time of peace has always in this country been a very unpopular measure, because of the expence necessarily attending it, because of the inconveniences many of our people are thereby subjected to, and because many plausible arguments may be suggested, for shewing it to be of dangerous consequence to our liberties; which arguments have always great weight amongst the vulgar, who cannot easily distinguish betwixt an army kept up against law, and one kept up according to law. As to the former, I shall grant, that it has always been, and always must be of the most dangerous consequence to the liberties of a free people; but I must insist upon it, that an army, while it is kept up according to law, can never be attended with any dangerous consequence with respect to the liberties of the people; and as to the expence, it is not near so great as that which the people would be exposed to, if we had no army; for one rebellion or insurrection would in one year bring a greater expence and loss to the people, than would support such an army as we now have on foot for seven years, besides the many other misfortunes which attend a civil war; and I am persuaded, we should never be seven years at a time without some such commotion, if we had no regular troops in the kingdom.

Gentlemen may now, if they please, Sir, shew their wit in ridiculing Jacobitism, and despising the disaffected; but no one that hears me can have forgot the time, when but a handful of the disaffected spread terror throughout the kingdom, when our laughter was turned into trembling, and when the most witty amongst us generally appeared to be the most fearful. Therefore, whatever use gentlemen may make of their wit in speaking upon this subject, I hope they will shew their judgment in voting; for it is remarkable, that no great reduction was ever made of the number of regular troops kept up in this island, but what occasioned an insurrection, or a plot towards an insurrection, among the disaffected. The great reduc-

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tion of our army at the end of queen Anne's reign was, indeed, I believe, by some designed to furnish the disaffected with an opportunity to overturn our established government: and as it would have been very unpopular in his late majesty to begin his reign with an increase of our army, the consequence was a most dangerous insurrection, which broke out before the end of the very first year of his reign. Again, in 1718, his late majesty, for the ease of his subjects, having reduced his army, the consequence was a plot for an invasion from Spain, and an actual insurrection of some of the disaffected in the north of Scotland. And again in 1722, though our army was then in number very near to what some gentlemen would now reduce it to, a plot was hatched by the disaffected, which would have been of the most dangerous consequence, if it had not been discovered before it could be carried into execution. As to the last most unnatural rebellion, I need not mention, because every gentleman must remember, that it was occasioned by our having so few troops in the island, most of them having been sent abroad to the assistance of our allies upon the continent; and the danger we were then brought into will, I hope, be a warning to us never again to expose ourselves to the like danger; for if the arrival of our troops from Flanders had been retarded by contrary winds, but for three or four weeks, the crown of these kingdoms, and together with it our liberties, properties, and religion, would have come to be contended for in a battle fought at the gates of our capital, in which we should have had but a very unequal chance, considering the many raw soldiers we had among our troops here at home, the panic then spread among them, and the number of Papists that would probably have joined the rebels, from the two great cities of London and Westminster.

Thus, Sir, we may from experience be convinced, that the keeping up of a sufficient standing army within the island, even in time of peace, is absolutely necessary for preserving our domestic tranquillity; and what happened in 1722, is to me a proof, that 15,000 men is not fully sufficient for that purpose. Our standing army therefore, while it is kept up according to law, is so far from being of any dangerous consequence to our liberties, that it is the only means by which they can be preserved, and for no other purpose can it be ever kept up according to law, because the parliament would certainly refuse its consent to the keeping up of an army, upon the very first suspicion of its being intended to be made use of against our liberties; and whatever the officers might do, I am persuaded most of the common soldiers would disband themselves, the moment the Mutiny Bill expired, and would join with the parliament in bringing to condign punishment all such as attempted to force them to serve against law.

The true use of our army being thus set in a proper light, I am persuaded, Sir, that every gentleman who views it in this light, will cheerfully contribute his share towards maintaining it, without being under the least apprehension of its ever being in the least dangerous to our liberties; and as to the inconveniences to which some of our people are subjected by our keeping up a standing army, let us consider, that in this happy country none are thereby subjected to the least inconvenience but our inns and public houses; for as to all others, especially our farmers, the soldiers are often useful, by assisting them in harvests and other seasons, when many additional hands are wanted. But if we had no standing army, what numbers of inconveniences and even dangers would all our people be exposed to; for the executive power of our government must be supported by some means or other against seditious mobs, tumults, and riots, which would be much more frequent if we had no regular troops; and as often as any such thing happened, in case we had no such troops, it would be necessary to call the people or the militia of the county to arms, and often to keep them under arms for several days together. Nay, we have one set of people amongst us that, I believe, it would be hardly possible to keep in awe, or to punish, without a standing army; I mean our smugglers; for as many substantial farmers and tradesmen, upon all parts of our coast, mix with such criminals, and become, if not partners, at least partakers in their crimes, I doubt much if it would be possible to get the militia of the neighbourhood to march against them, or to assist our officers in making a seizure; and therefore I am apt to think, that it would be impossible for us to raise the public revenue without a standing army, for in a short time we should have no such thing as a fair trader in the kingdom, with regard to any one article of consumption: even our excise officers

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would be so often opposed and rioted, that it would be impossible for them to discharge their duty.

I think I may now venture to affirm, Sir, that in our present situation it is absolutely necessary for us to keep up a standing army in time of peace as well as war, and that army must be so numerous as to be sufficient for the purposes intended, otherwise we should be better without any army at all. As to the expence of it, I shall admit, that our army in proportion to its number costs the government a great deal more than the armies either of France or Austria, but the difference of the expence to the people is not near so considerable; because in both those countries their armies are quartered in private as well as public houses, and in a great measure live at free quarters, as their exactions are generally winked at by the government; for when a regiment comes to be quartered in any city or village, the officers always first quarter themselves and their soldiers upon the richest inhabitants, who buy themselves off by paying large sums to the commanding officer, from whence they go to quarter upon the poorer sort of people, and if these are oppressed by their military guests, they are very little able to contest the matter, especially as the governors of provinces to whom they must make their complaint, are generally officers of the army. Thus we must see, Sir, that though the expence of our army be proportionally greater to the government, it may perhaps be proportionally less to the people; and granting that it is greater to both, I should think myself a very unfaithful servant to my sovereign, if I advised him to attempt to reduce the pay either of the officers or soldiers of his army; for it has been so long established by custom, that a reduction of it might probably cause a mutiny in the army: besides, we should consider, that though their pay be now nominally the same it was 60 or 70 years ago, yet it is not really of equal value, because a sixpence or a shilling will not now go so far in the purchase of the necessaries or conveniencies of life, as it would have done 60 or 70 years ago.

If this be considered, Sir, I believe, no gentleman will think, that the pay either of our officers or soldiers can be reduced; and as to the reform proposed in our troops, his majesty, out of his great regard for the ease of his people, has already gone as far as he can. The foot-guards cannot be reduced lower than they are at present; and the remaining troops of horse-guards are not really sufficient for the service of the several branches of the royal family; for that service is and must often be supplied by detachments from the blue regiment of horse, which makes it impracticable to reduce that regiment to dragoons, as all the rest of the regiments of horse have already been. Then as to our marching regiments, the present establishment is at the rate of 70 men to a company, which is as many as a captain and two subalterns can possibly keep in order, and under due discipline: if you should increase the number, they would not only be unfit for service, but would become so unruly as to be very troublesome to the neighbourhood in every place where they were quartered. In short, Sir, I have heard many general schemes of œconomy proposed, but when they came to be particularly examined, the very gentlemen who proposed them found themselves obliged to give up first one, and then another particular article, till at last they had given up the whole. Even the saving upon our marine, which was last year agreed to, we have this year been forced to give up; because other nations are endeavouring to worm us out of our trade, and may succeed, if we do not protect it by our navy; for which purpose a squadron must be kept on the coast of Africa, and there is now another in the East-Indies.

To conclude, Sir, I have the pleasure to think, and even to be convinced, that the nation is at present in a very happy situation. Our trade increases daily, as appears from the accounts both of our imports and exports, especially the latter; and the late reduction of interest will put us in a way of paying off a considerable part of the public debt yearly, which payment we shall of course be able to increase every year, if not prevented by a foreign war, which is not likely to happen for several years to come; for though there may be some nations in Europe inclined to disturb the present tranquillity, yet if those who can make war do not incline to do so, the others must continue to put a restraint upon their inclinations. In this situation can we wonder at the unanimity that prevails either within doors or without? Has any thing been of late attempted that can give the least colour to an opposition? Let us therefore hold ourselves well, whilst we are so, without engaging in any new projects, which may be at-



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tended with consequences that no human prudence can foresee; and of this kind I reckon the proposed reduction of our army, for which reason I shall most heartily give my vote against it.

Mr. *Norreys Bertie*:*

Sir; I do not stand up to oppose a standing army in general, but to give some reasons, why I think the smaller number on your paper, at this time, more eligible than the greater; and must own, I was in great hopes the gentlemen on the other side of the House, would have also been of my opinion; especially, as they have concurred with us, in augmenting the sea-forces, which we last year so strenuously contended for.

As a standing army has on all hands been allowed to be a necessary evil, why should not we make that evil as small as possible? Especially, as the public tranquillity both at home and abroad, makes the present time as reasonable for a reduction of it, as any that can be proposed: and the immense national debt, and pressure which both land and commerce suffer, from the load of taxes laid on them, should recommend the greatest economy to us.

But were our coffers full, and did not the exigency of the state require it; has not Great Britain a more natural force, and which justly claims all the money we can possibly spare it? A force which has been attended with success, not only in former wars, but even in the last; and which enabled us to make the peace we did? As therefore the 16,000 men proposed, will answer all the ends intended by an army, in time of peace; and as that number may soon be augmented on any emergency; why should the offer, though of a small saving, be rejected, when the weight of taxes the public has long, and patiently, groaned under, may make them hope their representatives will ease them from the most unnecessary expences of government?

I must beg leave to say, I think the examples brought from ancient and modern history, by the hon. gentleman under the gallery, are not parallel to the present question; for the contest is not to disband the whole army, but whether 15,000 men are not sufficient to answer all the ends of government in a time of profound peace? And indeed, was an indifferent person, who was unacquainted with our advantageous situation, to hear our debates to day, I am apt to think he would be induced to imagine us a parliament of some state on the continent; or at least, if he was acquainted with it, must conclude, we had entirely forgot that Great Britain was an island; which is, and in all probability will continue so, as long as I live.

I do not oppose the largest number of troops proposed, from any suspicion, that either his majesty, or the present gentlemen that compose it, will ever turn that force against the liberty of the subject, which is maintained for its defence: as most of those gentlemen are either of the highest birth, or have considerable properties of their own; but because I have neither heard any reasons assigned, nor can suggest any from the present debate, of weight enough to induce me to think that the smallest number is not adequate to the ends proposed; and therefore shall give my vote for the smallest number.

Mr. *William Thornton* said:*

There ought to be weighty reasons assigned for keeping up so great a number of soldiers in time of peace: that nothing but necessity could justify the measure; that little or no reason had been shewn last year, and less this, for keeping up so large a number, and so modelled; that he was less satisfied than ever of the good use intended to be made of them, especially when it was averred, that they were kept up against ourselves, which could not fail of alarming, in the most serious manner, every true lover of his country, nor of exciting the most grating reflections in a generous, open, discerning people. Though some might find their account, by such false suggestions, in making the people ill with his majesty and the government, in order to make themselves necessary, it was his endeavour to expose and render such artifices of no effect; and he did aver there never was a time when there was less occasion for such an imputation. He did assert there never was a prince more beloved by any people than his present majesty was by his, therefore he was certain 20,000 of such men must be a great deal too many for any good purpose; when he considered every post in church and state had been filled up, by the present happy establishment, with persons of undoubted good principles, and every family in the kingdom almost, one

* From the Gentleman's Magazine.

* From the Gentleman's Magazine.

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way or other, obliged to the family on the throne, which has rendered the government more firmly established than ever.

For these reasons he was sure neither the king nor the people stood in need of this great army for their security, though a certain set of men might. The model of it at present was terriblé, so adapted for destruction, by being set apart and separated from the people; the new creation of a staff to be maintained in time of peace, and the regiment of 1,200 men for the train, artfully couched under dubious words to make the people believe there are only 18,857 men, which, with other innovations, made it a complete army ready for action, an army in cantonment the same as in the field, so that one coul not help dreading the consequence; on which account he had rose up to enter his protest againt this measure, and to hold forth his testimony, and to apprize gentlemen and the world, that the army being artfully called 18,857 men, was, in reality, above 50,000 men; and to remind them, that the navy, or natural security, was much slighted, which did not look well; that bearing a small proportion to this idle, unwieldy, unnecessary, force, consisting of seventy-seven regiments, thirty-seven of them in Ireland, only supposed to be 12,000 men, but reported to be 18,000, and some of them regiments of officers, the very method of our arbitrary neighbours the French, by which they may at pleasure, imperceptibly to us, be increased to 37,000 men. Can it be said, there is no meaning in this? Can this expensive method of keeping up officers be done without a view, in our circumstance? And are they only for the people's good and preservation? If there are other motives, they cannot be good ones.

'Integer vitæ scelerisque purus
Non eget Mauri jaculis nec arcu.'

Sir, let us, at least, not adopt that damned Machiavilian doctrine, "that a free people cannot be governed but by force," who may so easily be won by love and affection. An army, Sir, was never kept up in any country in time of peace, but sooner or later, it was used against the liberties of the people, and at last enslaved them.

Sir, I lament that the people of this country have now too unequal terms to contend upon, for securing their properties and their independency. Machiavil says, Iron will prevail over gold; but, by this army added to the other power, our managers possess both—so are regardless of complaints, and of gratifying the just expectations of the people. To whom can they fly for refuge, or from whom can they expect redress, if not from persons now at the helm of affairs, famed through the land for being the supporters of liberty, and for their detestation of tyranny and oppression?

If the people do complain, perhaps they have just cause for so doing; feeling numberless burthens and taxes laid upon them, chiefly to support needless offices and places at immense salaries; the people are sensible of it, by their being generally occupied by persons of loose lives, without abilities, who make them sinecures, or, at most, appoint deputies, at small salaries, to transact them; they complain their representatives are debauched from them, that tax-masters vote taxes, that the army vote the army; in short, "Cuncti pœne patres clamant perisse pudorem." I must confess, I almost despair of any good to be done in this detested age, or of any reformation, so many having drank of Circe's fell cup, the cup of corruption, that they are, imperceptibly to themselves, become monsters, and glory in it; that I almost join in with Jugurtha's reflection when he left Rome, "Urbem venalem et mature perituram si emptorem invenerit."

Persons trained up in the principles of liberty can ill brook this new doctrine, of being retained in subjection by an army; having imbibed other notions in their education, so strong as not to be able to divest themselves of them; that he, for one, did detest and abhor the men that would offer it, and did declare, 'Manus hæc inimica 'tyrannis.' Could, Sir, our forefathers, at the Revolution, have conceived that their much-boasted and dear-purchased liberty would have ended in a large standing army, as a protection for Bureaux and Pactors, from the remonstrances of their much-injured posterity, and saddled with a debt of eighty millions; would they have called that a deliverance? They would scarce have thought the alternative a valuable consideration. Though I should allow, Sir, there is no intention in some of our managers to enslave us, it will be but a melancholy reflection, when it does happen, towards alleviating the distressed, to say, it was not intended. Is it not a severe imputation upon those who have every advantage to make themselves esteemed by, as the disposal of all the revenue, posts, and preferments in the realm, to

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call out for a military to support their measures against the hate of the people? Does it not convey something as if they were not the best managers in the world?

Persons in high stations, surrounded by flatterers and sycophants, are much imposed upon, and impose upon themselves, by imagining their actions are not, and ought not to be scanned by the people; they flatter themselves they are approved. Much in the manner of a story I have heard of a certain esquire, oppressive and arbitrary in his neighbourhood, where he bashawed it away, had good eating and drinking, for the sake of which many persons resorted to him, who always said as he said, commended all his faults, and told him they were virtues, and that the whole country admired him: and flattered him continually, for the sake only of what they could get from him. He, not long after, put it to the test, by sallying out into a neighbouring village, where, instead of pæans and shouts of joy, he was saluted with dirt and dead dogs, and pelted out of the village with rotten eggs. He came home vastly disconcerted and dejected, and accosted his parson, who had been one of the forwardest of his flatterers, 'How now, parson,' says he, 'did not you 'tell me how much I was admired, and 'you see what has happened?' [Upon this several members cried out, "The story, the story." Whereupon Mr. Thornton stood up again, and repeated it, and then proceeded:]

Sir, I shall leave the application to the House, and conclude with imploring gentlemen, if they have any bowels for their country, any affection for his majesty, and for his family being long amongst us, or any regard for the liberties of their posterity, to reduce the army, and to lessen thereby our numerous taxes. He was therefore for the lesser number, being 15,000 only, and added, he had received great pleasure from some favourable words thrown out by an hon. gentleman, of a force of another kind: he hoped he meant a Militia. He said, he did engage himself to that hon. gentleman and the House, that he would offer that force immediately, by presenting a Bill for that purpose to the House, and he hoped he should have his assistance and concurrence in so good a design.

The original motion was then carried by 108 against 43.

*Debate in the Commons on the Land Tax.**] December 5. Mr. Charlton reported the following Resolution from the Committee of Supply, Resolved, "That, towards raising the supply granted to his majesty, the sum of three shillings in the pound, and no more be raised within the space of one year, from the 25th of March 1752, upon lands, tenements, hereditaments, pensions, offices, and personal estates, in that part of Great Britain called England, Wales, and town of Berwick upon Tweed: and that a proportionable cess, according to the ninth article of the Treaty of Union, be laid upon that part of Great Britain called Scotland." In favour of the motion, it was argued, That the exigencies of the state required so large a sum as was mentioned, which must be made up, either of the sinking fund, or by continuing the 1*s.* upon the land, which the gentlemen, who opposed continuing the land-tax at 3*s.* in the pound last year, did then acquiesce in, being promised it should be reduced to 2*s.* this year, and the sum of 500,000*l.* if wanted, to be taken out of the surplus of the sinking fund, if that should be thought the most eligible alternative; but, when gentlemen were put in mind of that affair this year, it was alleged, that to take so large a sum from the sinking fund would alarm the monied interest, and be deemed a breach of parliamentary faith. In short, the landed men were not to expect that their burden would ever be made lighter than it is. There was no mention made of reducing needless offices or expences of any kind, which had been urged as the best ways and means for the public; but some gentlemen shewed a great delicacy, as they always do when such topics are upon the anvil, though they discover none when extravagant demands are made upon the public.

Mr. *William Thornton:*

Sir; having been interrupted the day before, I take this opportunity of declaring my sentiments more fully, upon the present measure of continuing the land-tax at 3*s.* in the pound for the next year. I am sorry to see any alteration in the opinion of gentlemen since the last session, in regard to reducing the land-tax to 2*s.* in the pound, as we were then made to believe it would be; this false hope has increased the grievance, by the vexation of a disappointment; and as it is now insinuated that this grievance will never be

* From the Gentleman's Magazine.

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removed, the disappointment is aggravated by despair; at the same time not one plausible reason is assigned for continuing it, nor can I suggest any, save the difference in the book of numbers, which can possibly cause such a change of opinion.

I am sure a reduction of 1*s.* in the pound would, at this time, be very grateful to the landed interest, considering the loss it hath sustained amongst the cattle, and the burthen it hath so long borne; and a relaxation of 1*s.* only for a year, would make it more tolerable, because it might induce the people to hope it would not be perpetual.

The land-tax itself is so very partial a tax, that any other method of raising money is preferable to it; for he who pays it, in fact, pays doubly, because he pays his proportion to every other tax besides; and the present manner of assessing it is unequal and unjust, taxing that upon the landlords, who receive only twenty millions a year, which ought to be upon the sixty millions, the annual produce of the whole land. This method of taxing hath made the tax a greater burthen than it needs to be, by raising it in a manner quite contrary to the letter and spirit of the act. All taxes do not come finally on land, according to a notion which prevails among some gentlemen; for, if they do, then is this debate upon the alternative needless; I therefore think it impolitic to load the land at any time, unless in case of necessity; but most impolitic now, since the 500,000*l.* may so easily be supplied another way.—The alternative, once proposed, may be chosen, or the number of places and salaries may be lessened, and useless servants may be dismissed; but the self-denying ordinance is long since given up by gentlemen; and it being resolved that we must raise that sum, the only question now is, in what manner it should be done?

But as I think a competition betwixt the landed and monied interest at this time very improper, I shall not dwell upon it. I have observed, that the monied interest is fleeced one year, and the landed another; and I judge it best, for their mutual interest, to unite against the common enemy; though I cannot help putting gentlemen in mind, that the landed interest did not invite the war, and that it merits greatly of the monied interest for standing so firmly by it in the time of danger; and it would be but just if the House would divert part of the revenue, for one year, in ease of land, notwithstanding what another hon. gentleman has thrown out to the contrary, about the public creditors taking umbrage at it. I am confident there is no colour for that suggestion, for the hon. gentleman knows very well that, so far from their complaining of such an application as a breach of parliamentary faith, the House cannot give greater pleasure to the creditors of the public, than by letting them know their money shall be continued longer; and the administration here is very remarkable, for, by chusing this method, it hath an opportunity of obliging both the landed and the monied interest; if the regard expressed for the monied interest hath been real, why was not that opportunity embraced? I here venture to assign the true reason.

The surpluses of the funds belong already to the administration by indefeasible right, consequently to take from the funds to ease the land is no profit to some gentlemen, the funds being already in their clutches. The 1*s.* more upon land is an immediate acquisition to them, therefore they seek it; and their abettors are influenced by doctrines built on self-evident principles, 'give much, that much may be given unto you;' and, notwithstanding the specious promises thrown out, of good use to be made of the money, when it is raised in their own way, and of fair accounts for it after it shall be spent, yet I am apprehensive that the old management will still subsist; it being to be trusted in the hands of persons who, I am convinced if all the gravel in England was gold, and they the managers of it, would squander it, and not account at all: I therefore consider it as sunk into the great gulph which has absorbed so many millions, and from which not a mite has ever been recovered; and, considering how things are circumstanced now, I must acknowledge the lenity of the administration, in not requiring 17*s.* out of twenty, and leaving the people only the three.

An hon. gentleman, Sir, hath, indeed, thrown out hopes of comfort for us, that our debts may be paid off in 60 years, and that then there may be a relaxation of the land-tax; but it is a melancholy reflection to the landed man, who is to wait so long for the accomplishment of these hopes, that without good œconomy and honesty in all the administrations intervening, they will at last be disappointed. For my part, I am not so sanguine as to flatter myself with such expectations, considering what

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hath happened in former times, and even in the 20 years preceding the war, the debt then being only 50 millions, and so little paid off. I have not warmth of imagination enough to believe that persons, inured and accomplished in every art, will have so much integrity as to do better for the future, incumbered as we are with debts to the amount of 80 millions; nay, so little do I presume on hopes of the good œconomy of persons in office, or to be in office, under the government, that I declare before this hon. House, I had rather give those persons 19*s.* without account, than trust twenty with them; for I look upon every shilling, withheld from rapacious hands, as clear gain: for I have always thought that a generous and public spirited people were the best cashiers for the government, as we experienced in the last rebellion; when it was remarkable at the time the danger was most pressing, that the people subscribed largely and cheerfully, in defence of our happy establishment: and the persons in office but little. It hath indeed been asserted that they subscribed nothing; but this, if true, cannot be supposed to proceed from want of affection to his majesty; it must rather be imputed to the greatness of their hurry and confusion, and the great concern they felt for the safety of their gracious master in that arduous and critical time, which so disconcerted them, as to make them omit testifying their zeal in the most effectual manner. The former affectionately tendered their lives and fortunes in the defence of their king and country, in the day of trial; the latter contented themselves with paying their addresses at court. But as I am sensible they have been watching for a proper opportunity of rectifying this mistake, and atoning ever since for their deficiency, I am sure, they will unanimously concur with me in the motion I make, that the House should recommit the report, in order to give an opportunity to those gentlemen who have places, pensions, and emoluments from his majesty, to subscribe the money, now wanted to be raised upon the landed interest, out of their salaries; an opportunity which, I am assured, they will eagerly improve, and return me thanks for contributing to afford it; their zeal on such occasions being, beyond competition, more fervent and exalted for his majesty and the people's good, than the zeal of those who receive no emoluments of any kind.

Mr. *Sydenham* seconded the motion, and spoke to the same effect, and concluded his speech with saying,

'Lie heavy on him, Land, for he
'Laid many a heavy load on thee.'

After which the House divided, 58 for the Resolution, and 19 against it.

## 1752.

*Debate in the Commons on the Subsidy to the Elector of Saxony.**] January 22, 1752. The House having resolved itself into a Committee of Supply,

Mr. *Pelham* rose and said:†

Sir; the treaty between his majesty and the States General on the one part, and the king of Poland, elector of Saxony, on the other, concluded at Dresden the 13th of September last, having been referred to this committee, I now

* This Debate is taken from the London Magazine. By the Note to Mr. Horatio Walpole's Speech, at p. 1137, it will be seen that Mr. Coxe was not aware of its existence.

† "October 4. I went to town to see Mr. Pelham. We touched upon the subsidies attending the election of a king of the Romans: Mr. Pelham's face fell, and he grew very uneasy upon it, and expressed much dislike at the way it was conducted. He said, he was always against these subsidies; that his idea was, that, if the dissenting electors would give in the ultimatum of their demands, and perform the conditions before they received the reward, then, indeed, when we were sure of our bargain, it might be worth considering if it were prudent to pay the price: but, to be buying one elector after another, was what he abhorred and could not approve of. It must have an end—he had declared so in parliament, and, as I was not present at the debate, he would tell me what he said, for he found that he had been misrepresented. I told him, that I had heard from many quarters how he was understood; that though I was satisfied that he said nothing but what was proper, yet, whatever was the general acceptation was worth attending to: I continued, that it was allowed on all hands, that he declared against the subsidies in general, but that he was for the present demand, as it was to be the last, and as he had good reason to think, it would certainly attain the end: that it was, by somebody, fastened upon him, who, rejecting all that others had said, declared that he voted for them, singly on the assurances given by him. Mr. Pelham replied, Who? Pitt? I said, No; I thought it was Mr. Fox. He repeated, in a low voice, Oh, Fox! with great signs of uneasiness and discomposure, and in that situation I left him." Dodington's Diary.

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rise up to move for granting such a sum to his majesty, as may be necessary for enabling him to make good the engagements he has entered into by that treaty; and I cannot suppose, that it will be necessary for me to make use of many arguments for inducing the House to comply with the motion I am to make; because this treaty, with the king of Poland, was a natural and indeed a necessary consequence of that with the elector of Bavaria, which was last session so wisely approved of by a great majority of this assembly. The providing against a vacancy of the imperial throne, by getting the eldest son of the present emperor chosen king of the Romans, was then thought to be a measure so necessary for securing the peace of Europe, and preserving the balance of power, that few gentlemen seemed to grudge any expence that might be found to be necessary for rendering that measure effectual. It was, indeed, then thought that this nation would not have been put to any farther expence upon that account, and perhaps we should not, if it had been thought prudent to proceed to an election upon our having secured only a bare majority of the electors; but every gentleman must see, that in order to render this election the more firm and indisputable, it will be proper to have the concurrence of the whole electoral college, or at least of as many of them as can possibly be procured; and for this purpose it was necessary, among the very first, to gain the king of Poland, elector of Saxony, not only as being one of the most powerful electors, but as being one of the two vicars of the empire.

It was upon this maxim, Sir, that his majesty entered into the negociation for the treaty now under our consideration; and the maxim was so apparently wise and just, that the Dutch, without any difficulty, not only approved of it, but also agreed to bear a proportionable share of the expence, notwithstanding the present low state of their finances, and the heavy debt they now labour under. That wise people are fully sensible of the dangerous consequence of a new vacancy in the imperial throne, therefore they rightly judge, that it ought to be guarded against at any expence: and considering the disputes still subsisting between this nation and France as well as Spain, we have more reason than the Dutch to be afraid of that danger; for the freedom and independency of the Dutch is of such an immediate concern to all the princes of Germany, that if France and Spain should attempt to conquer Holland, it would in a manner force all those princes to put an end to, or at least to suspend all their mutual disputes and animosities, and cordially unite together for the protection of Holland. In such a case, and for such a purpose, they would soon agree upon the choice of an emperor, and all join in a confederacy for saving their neighbouring state. But if upon a vacancy of the imperial throne, a civil war should arise in Germany about the choice of a successor, and France and Spain should take that opportunity to endeavour to drive us out of all our possessions in Asia, Africa, and America, as well as the Mediterranean, such an attempt would be thought of very little concern to the princes of Germany, and consequently would have no such influence as to force them to put an end to the civil war among themselves, especially if we had before shewn ourselves quite indifferent about their concerns, and had refused to concur in any measures for preventing that civil war.

I know, Sir, it is an unpopular and invidious task to talk against the power or strength of one's country; but I despise flattering even my native country, at the expence of my sincerity; and therefore I must declare, that, in my opinion, it would be impossible for us by ourselves alone to support a war of any continuance against the united power of France and Spain, and probably of the whole House of Bourbon. In such a war they would certainly compel Portugal to refuse admittance to our ships of war into any of her ports, and might perhaps compel that kingdom to join with them in the war against us; for as that kingdom lies open to an attack from Spain by land, against which we could give it little or no assistance, it would be forced to receive the law from the House of Bourbon; and let gentlemen consider what condition our ships would be in, if upon any distress or danger they had not a port to retire to from the Land's End to the straits of Gibraltar. Then again let us consider, Sir, how, in case of such a war, our navy, formidable as it is, must be weakened by being divided; for we should be obliged to have always one numerous squadron in the Mediterranean, another of equal force in the West-Indies, and a third superior to either upon our own coasts; and besides these, it would be necessary for us to have always a small

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squadron upon the coast of Africa, a second in the East-Indies, and a third in the Baltic. All these squadrons, I say, it would be necessary for us to have continually in their respective stations, for the protection of our trade or our settlements in these several parts of the world; and would it be possible for us even with the best intelligence, to prevent its being in the power of France and Spain to steal out their ships and attack us with a superior squadron in one or other of those places?

If these things be duly considered, Sir, every gentleman must see, that whilst France and Spain continue united, and whilst both of them are daily forming projects against our trade and foreign settlements, which they want only a proper opportunity for carrying into execution, it will be absolutely necessary for us to have always a confederacy upon the continent ready to attack them by land, if they should ever openly attack us by sea or in America. But if an intestine war should break out in Germany, would it be possible for us to provide any such confederacy? And every one knows, that nothing is so likely to create an intestine war in that country as a vacancy in the imperial throne. Therefore in the present circumstances of Europe, there is no nation in it, no not even Germany itself, that can have a greater concern than we have, to prevent, as far as is consistent with the constitution of the empire, the possibility of such a vacancy; and consequently we ought not to grudge any expence that may appear to be absolutely necessary for guarding against such a dangerous misfortune.

But, Sir, a vacancy in the imperial throne is not now the only misfortune we have to guard against: France, we know, is at great pains, and vast expence, to gain and attach to her interest, as many of the German princes as she can prevail with to accept of her terms; and as most of those princes now keep up a larger number of regular troops, than their own proper revenues can support, they must have subsidies from some foreign state or other. The empress queen of Hungary is always obliged to keep up such a numerous army of regular troops, in order to be ready to make head against any sudden irruption of the Turks, that she cannot spare to grant any subsidies; and the Russians are in the very same situation; consequently none of the princes in Germany can expect any subsidy, unless it be either from France and Spain, or from the Dutch and us. Most of them, I have good reason to believe, will accept of a less subsidy from us, than what has been offered, or may hereafter be offered by France; but if we should be so imprudently parsimonious as to refuse to grant them any subsidy, they would be obliged to accept of one from France and Spain, and in consequence thereof they would be bound to join with those two crowns, perhaps against the interest of their native country, as well as against that of Europe in general.

Thus it appears, Sir, that his majesty had two most pressing motives for concluding this subsidy treaty with the king of Poland; for he has thereby prevented that prince's being reduced to the necessity of entering into any treaty with France, and he has secured, as far as is consistent with the laws of Germany, the concurrence of that prince's vote and interest for electing the archduke Joseph king of the Romans. This, it is true, is not, nor could it be made an express article of the treaty, because such an article would have been contrary to one of the fundamental constitutions of the empire; but this was understood by all the contracting parties, and I am convinced, will be as faithfully performed as if it had been made an express article, not so much on account of the tacit engagement in the treaty, as on account of its being agreeable to the particular interest of Germany, as well as the general interest of Europe.

I may therefore, I think, now venture to say, Sir, that we have secured not only the two vicars of the empire, but two thirds of the electoral college, to concur in the election of a king of the Romans; and consequently, I hope, nay, I trust, that the election will be brought on, and the archduke Joseph elected, before we meet here again in a new session. Nothing, I think, can prevent it, unless it be a well-grounded hope to get the election made unanimous; and this I have some reason to think far from being impracticable. I wish with all my heart it may be effected; for it is an end so desirable, that the least ground to hope for attaining it, would fully compensate a delay for another year, if that should appear necessary, which, I trust, it will not; and therefore, I hope, this will be the last expence which this nation may be obliged to put itself to for securing, as far as human prudence can devise, the internal quiet of Germany, and



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of course not only our own tranquillity, but the free and uninterrupted possession of our trade and our settlements in every part of the world; and if we can purchase such a valuable security for such a trifle of expence, I am sure, every gentleman must allow, that we have made a cheap purchase; for which reason I shall conclude with moving, "That a sum, not exceeding 32,000*l.* be granted to his majesty, to enable his majesty to make good his engagements with the king of Poland, elector of Saxony, pursuant to treaty."

Mr. *Horatio Walpole*,* sen.

Sir; although I have for many years generally agreed in my sentiments with the hon. gentleman who spoke last, and although I now agree with him in thinking, that it would add to our security, as well as the security of the balance of power, to have the archduke Joseph chosen king of the Romans, yet I cannot agree with him in my opinion of this treaty; for I not only think, that the nation is thereby to be put to a most unnecessary expence, but that the treaty itself is a very wrong measure, because it will rather prevent than forward the end for which it is said to be intended.

With regard to the expence, Sir, it should have been considered, that the king of Poland is in circumstances very different from those of the elector of Ba-

* "Notwithstanding the arguments of Mr. Walpole against lavishing the treasures of England on German princes in time of peace, for the sake of securing an election, which could not finally be obtained without the concurrence of Prussia, sums of money were granted to the electors of Saxony and Palatine, under different pretences. The conclusion of the subsidiary treaty with Saxony for 32,000*l.*, impressed Mr. Pelham with the deepest regret; as it seemed to be a violation of his solemn promise in the House of Commons, on the debate relative to the subsidy for the elector of Bavaria, that no farther subsidies would be wanted for securing the election of king of the Romans. He accordingly strongly remonstrated in the cabinet, almost came to a rupture with his brother, and even expressed to Mr. Walpole a determined resolution of seconding his opposition to the measure in the House of Commons. But, before the business was discussed, the mediation of friends, and their just representations that an open separation from his brother would ruin their party, prevailed over his resentment. Mr. Walpole, aware of this change in the sentiments of his friend, was unwilling to embark in a fruitless opposition, yet scorned to conceal his sentiments: he adopted the same conduct which he had pursued on the grant of 100,000*l.* to the queen of Hungary, and strongly reprobated the measure, while he gave his vote for the subsidy. I am happy to lay this original speech before the reader, as it has never been given, or even mentioned, in any historical publication. On the 22d of January, Mr. Pelham moved the House to grant the subsidy to the elector of Saxony, and supported his motion with his usual ability:

"Mr. *Walpole*, in reply, began by observing, 'That his honourable friend, who made the motion, had endeavoured to explain away his former declaration, on the debate for the Bavarian treaty, that no more subsidies would be wanted for securing the election of a king of the Romans. As he then voted for the question under that impression, Mr. Walpole begged leave to remind the House of that declaration; and though personal motives, and compassion for the elector of Bavaria, might have induced some members to vote in favour of the motion, yet the greatest and principal inducement was a full persuasion, that as it was a dangerous and unprecedented measure to grant subsidies to foreign powers in time of peace, and as it was the first, so it would be the last of this nature.' 'This, I say,' he continued, 'was the general persuasion; it was so intimated by persons of weight; and others, that spoke for the question, declared, that the door should be shut for the future against such an attempt. I am, therefore, surprised and concerned to find that another subsidy is demanded for another elector, and that his demand is founded upon some words in the speech from the throne last year. For we are told in the speech of this session, that the king, when he acquainted us last year with the treaty made with the elector of Bavaria, also let us know he was taking such measures as would tend to secure the tranquillity of the empire, and support its system.'

"He then scrutinised the several articles of the treaty, and urged, that the subsidy was granted to the king of Poland, elector of Saxony, for doing what he would otherwise perform without the subsidy, and for pursuing a line of conduct which his interests and inclinations would naturally lead him to adopt. 'He was paid,' he said, 'for not promising to bear arms against the maritime powers, who had never given him the least provocation, and against whom he had never discovered any marks of dissatisfaction. He was paid, likewise, for making the same stipulation with regard to Austria and Russia; powers to whom he had the greatest obligations, with whom his own interest was closely connected; who conferred on him the crown of Poland, and to whose assistance he must be indebted for rendering the throne hereditary in his family. By another article he bound himself to send succours, stipulated by former engagements, to the assistance of Austria and Russia, should they be



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varia. The family of Bavaria had long had an attachment to France, and might still have thought it their interest to continue that attachment; therefore, if there had been no such thing as an election of a king of the Romans in view, it would have been not only prudent, but necessary for us to grant a subsidy to the elector of Bavaria, in order to withdraw that prince from his attachment to France, and to fix him in the interest of the House of Austria, and of this kingdom. For this rea-

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attacked; an extraordinary and absurd condition, to pay a prince for the performance of his former engagements with other powers!

"He deemed the article no less unreasonable which stipulated that the king of Poland should furnish a body of 6,000 men, or more, should the king of England or the States be attacked; for the money was to be annually and punctually paid for a certain period of years, while the performance of the condition was precarious, from the uncertainty of the time when it would be demanded; and whether, from the ever-shifting interests of the German courts, it would be complied with when demanded.

"'Admitting,' he said, 'that the exigency of affairs may render it necessary to hire foreign troops, it is needless to grant large subsidies for a term of years, in time of profound peace, when no danger threatens; while they can be hired in a few months, before an approaching rupture, which can easily be foreseen; for the storm does not suddenly burst, without the gathering of the clouds. If we then bid as much or more than other powers, we shall get those troops; but if other powers offer more than we, they will get them, notwithstanding our profusion. Hence, if any part of the subsidy is granted for a term of years, it is unnecessarily wasted; it is *emere spem pretio*, it is giving real money for uncertain expectations, not well to be afforded in our present circumstances.'

"With regard to the principal and important object of the treaty, to secure the election of the archduke, which he allowed to be an object of great importance to the tranquillity of Europe, and the interests of England, he argued that the success was rather retarded than promoted by the grant of subsidies.

"He then proved, by an historical deduction, the failure of all attempts to wrest the imperial crown entirely from the House of Austria, which was acknowledged to be the only power in the empire capable of supporting that dignity, and preserving the Germanic constitution. Nor would the temporary exclusion of that House have taken place, even on the extinction of the male line, had not the emperor, Charles the 6th, refused to obtain the nomination of his son-in-law, Francis the 1st, under the chimerical hope of having male heirs by a future marriage; but, dying unexpectedly, his succession, which he had endeavoured to secure to Maria-Theresa, by the pragmatic sanction, was claimed by numerous pretenders, abetted by the whole power of France.

"'The electors, conceiving her ruin to be unavoidable, and eager to share the spoils, raised the elector of Bavaria to the imperial throne. And what was the consequence,' he emphatically demanded, 'of this precipitate measure? Why, in two years, they heartily repented of this rash proceeding; they soon found that their new chief was absolutely, not only in all military counsels and operations, but in all transactions at the diet of Frankfort, under the immediate influence and direction of France, and, instead of being an emperor of Germany, was a slave to that crown; and they could not but conclude that it must be the same in time of peace, and, consequently, the constitution of Germany would be undone. In short, being convinced that no other German prince, but one of the House of Austria, could be endued with sufficient power and authority to support the dignity of the imperial crown, and preserve the system of the empire, they immediately, upon the death of the Bavarian emperor, without intrigues or subsidies, even at a time when the king of Prussia was not reconciled to the queen of Hungary, and France was victorious against her and her allies, conferred the imperial crown on the duke of Lorrain. And, why? Not on account of any personal regard to him, who was in a manner a foreigner; but as being the only means to restore and perpetuate that dignity in the House of Austria, as absolutely necessary for their own safety, and to preserve the constitution of the empire. This choice was a plain indication, and, indeed, virtually a determination of their intentions in favour of the archduke to be king of the Romans; and consequently there could be no manner of apprehension that they could, by any influence or intrigue, be diverted from pursuing, in a proper time, an object so necessary and salutary to themselves. They have no other choice, without seeking, with their eyes open, their own ruin. Their interest and inclination must lead them to it; and, if they had been let alone, there seemed to be no reason to fear but that whenever the court of Vienna should be disposed to put it in motion, that election, in this time of peace, could not fail of success. France would scarce have gone into a war on that account, nor would the king of Prussia have interfered to retard it, unless it was to be carried with a high hand, and avowedly in open defiance of him. There seems, therefore, to have been some *arcana imperii* in this affair; not, I dare say, of any bad intent, but perhaps of such a nature as, on account of the intelligence, might not be proper to explain.

"'I will therefore suppose that the court of Vienna had made, and communicated in confidence to ours, some discovery, that, notwithstanding the present seeming tranquillity and calmness, a certain great power (France) had

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son many gentlemen, of whom I am one, might have last year approved of the treaty with Bavaria, and yet may now very much disapprove of this treaty with the king of Poland. Even that with Bavaria I should have disapproved of, if we had then had nothing else in view but the election of a king of the Romans; because in every case where this is the only view, the granting of a previous subsidy must either be unnecessary; or it must tend to defeat, or at least to delay the

secretly set on foot intrigues in Germany to embarrass and retard the choice of a king of the Romans, and that a sum of money was necessary to obviate and disappoint the effects of them: that the queen of Hungary was using her endeavours to put her finances in a better condition, but at present, having no money to spare, desired his majesty would (considering the advantage that had accrued by the reduction of the national debt,) advance a certain sum on this urgent occasion. These, or some such instances as these, must, I imagine, have been the motive for this extraordinary demand of a subsidy for the elector of Saxony; for I can never believe, or suspect, that we have ourselves officiously, without such a request from the queen of Hungary, (who is so immediately concerned, in a point of such consequence to the honour and interest of her own son and family,) called upon her first, to set on foot the election of the archduke to be king of the Romans, and not leave a matter of such importance open and exposed to the hazard of future events; letting her know, that, if a sum of money was wanting for so great an object, we were ready to give it; that she had purely, from our application, graciously condescended to accept such a friendly offer, intimating, that although she had no reason to suspect the inclination of the electors in favour of her son the archduke, yet a subsidy might be very welcome to some of them in their present circumstances. I say it is impossible to surmise that we should, of our own voluntary motion, have made this generous but unaccountable offer, considering the state of our finances. I must therefore suppose that we have been earnestly pressed, by the court of Vienna, to come into these subsidiary treaties, as absolutely necessary to preserve the peace of Europe, and the constitution of the empire, in which we are so essentially concerned.

"'He had no objection,' he said, 'to stipulate the payment of a certain sum for a limited period; but strongly objected to annual subsidies, during a term of years, for a distant and uncertain event. He complained that the treaty was loosely worded, and contained some stipulations which did not appear in the Bavarian treaty; such as, that the ministers of Hanover and Saxony should act in conformity, and in consequence of the fundamental laws and constitution of the empire, which might afford a pretence to the elector of Saxony not to fulfil his engagement, should the king of Prussia declare that the method of proceeding was not agreeable to the constitution of the empire.

"'These subsidies were granted principally with a view to secure the election; but, supposing that the election should not take place before the expiration of the term for which it was made, are these treaties to be renewed, or prolonged? Where and how will this unprecedented method of proceeding end?' He next adverted to his favourite notion of promoting an alliance with Prussia. After lamenting the want of a better intelligence between the two sovereigns, he approved the plan of cementing a friendship with the czarina; because, her interest being united with ours, and our alliance as much desired by her as her's by us, we should have no occasion to grant subsidies to her.

"'But there is a consideration,' he continued, 'of great consequence, which affects me in a most sensible manner. His majesty, on account of the happiness we have enjoyed so many years under his most gracious and auspicious reign, making the laws of the land the rule of all his actions; and particularly by the wise provision of a regency, of which he himself was the author, and by which he not only shewed a fatherly concern, that the children of his own royal family, but that of his people also, whom he considered as his children, should, during a minority, still continue, as far as possible, happy under the same mild government. I say, his majesty, by these signal marks of his goodness, has engaged the affection of all his loyal subjects: I repeat loyal, for I am afraid, if an occasion should offer, there would be too many found not to be so loyal as I could wish; he is at present in a higher point of popularity and glory than any of his royal predecessors ever attained.

"'He has, indeed, lately undergone some shocks in his own family: the imminent danger of the duke of Cumberland's life, which I look upon, next to his majesty's, during a minority, as the greatest bulwark to our present and future security, affected him, as it did all that wish well to this government, with the utmost agony and concern. His majesty had scarce, by the recovery of his royal highness, overcome that blow, when the melancholy event of the death of his daughter, the queen of Denmark, overtook him; a princess of the most amiable and truly royal accomplishments, derived to her by her birth, and improved by the example and education of that incomparable and ever to be lamented queen, her royal mother, whom she resembled, and whose resemblance increased the affliction.

"'These are inevitable strokes of Providence, which his majesty's reason and greatness of soul must and have got the better of, fortified with the healing and comfortable satisfaction

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election until it becomes absolutely necessary by the demise of the present emperor; for every elector must either think, that an immediate election of the archduke Joseph, as king of the Romans, is absolutely necessary for the safety of his country, or he must think that no such immediate election is necessary: if the former be his opinion, he will immediately concur in that election without any subsidy from us: if the latter, he will naturally conclude, that the subsidy granted by us upon that single account, must be continued until the election be made, and

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of reigning in the hearts of his faithful subjects. But should any measures be pursued that may be thought grievous, and inconsistent with their interests; should they apprehend that, under the present great load of taxes and debts, the public money is annually doled out to serve purposes foreign to their real concern and welfare; should their minds by degrees be alienated, and the mutual harmony flowing from royal protection on one side, and a cheerful obedience on the other, be interrupted; and the people, in whose love his majesty has placed his own happiness and glory, grow discontented and uneasy, that uneasiness might make a deep and heavy impression on his majesty's mind, which at an age so far advanced might prove of fatal consequences to us all.

" 'These are, Mr. Charlton, the motives that have induced me to give the committee so much trouble on this occasion, in order to check a system that seems so unnecessary; and may, if carried farther, create discontents and clamour against his majesty's government and administration. I do not in the least mean to stir up an opposition, or to lay the foundation of one, until opposition is grounded upon more generous and public-spirited principles and views than I have hitherto seen it. I detest and abhor it, for I shall continue still to vote in support of the present administration; nay I shall vote for the present question, notwithstanding all I have said against it: and, for this reason, because the treaty is signed, the treaty is ratified, and should we give a negative to it, or take a step to disappoint the performance of it, it would affect his majesty's honour, and lessen the influence and respect which his majesty has so justly obtained abroad, and which is so necessary for the public good. I shall continue to act on the same principles, in support of this family and our happy constitution, as I have invariably done for so many years. I shall act in concert with that body of gentlemen who are without doors called the old corps; a body of men, who with scarce any other bias or encouragement than that of voting agreeably to their own sentiments, have never swerved from pursuing an uniform conduct for the preservation of the present establishment. And if I may be so vain as to suppose that I have influence or weight with them, I must intreat and exhort them to join with me, notwithstanding what I may have said to the disadvantage of this measure, in acquiescing this time in it, with a persuasion that the door will not only be shut, but barred and barricaded for the future against the dangerous system of granting subsidies to foreign powers in time of profound tranquillity.

" 'Mr. Charlton, I beg pardon for having troubled the committee so long; but I hope it will make some amends to let them know it will be the last time I shall do it upon matters of state, particularly with regard to foreign affairs. They are now conducted and carried to a height far beyond my reach and comprehension, which I am ready to attribute to my own weakness and want of understanding, on account of my advanced age; and therefore I shall limit my attention and concern, in this House, for the future, to those low trifles that relate to wool, the woollen manufacture, and the improvement of our trade. With respect to more weighty and arduous affairs, I shall follow the advice of my namesake Horace:

' Solve senescentem mature sanus equum, ne
' Peccet ad extremum ridendus et ilia ducat.'

" This Speech was heard with profound silence and attention. Mr. Pitt, although he had warmly defended the Bavarian treaty, coincided with Mr. Walpole in disapproving the new subsidiary treaties, was much struck with this effusion, and requested him to consign it to writing. Mr. Walpole complied with his request; and Mr. Pitt acknowledged, in the most flattering terms, the high satisfaction which he derived from the perusal:

' Dear Sir, I return you the packet you was
' so good to send me, together with a thousand
' thanks for the favour; your speech contains
' such very weighty matter; and from begin-
' ning to end, breathes the spirit of a man who
' loves his country. If your endeavours con-
' tribute to the honest end you aim at, namely,
' to check foreign expences, and prevent en-
' tanglements abroad, under a situation bur-
' dened and exhausted at present, and liable to
' many alarming apprehensions in futurity,
' you deserve the thanks of this generation, and
' will have those of the next. I am, with very
' great regard, dear Sir, your most obedient,
' and most humble servant, W. Pitt.'

" Mr. Walpole seems to have adhered to the resolution with which he concluded this speech, never again to deliver his sentiments in parliament on the conduct of foreign affairs; for from this period I perceive no traces of his parliamentary interference, either in the periodical publications of the times, or among his own papers, excepting his exertions relative to trade and manufactures, which he never intermitted." Coxe's Memoirs of Horatio Lord Walpole.

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that it will cease as soon as the election is over, or at least as soon as the term expires, for which it was granted; and in consequence of this conclusion, he will certainly find some excuse or other for putting off this election, until it becomes absolutely necessary by the death of the present emperor.

Upon this, which I think a certain and incontestable principle, let us see, Sir, how the case will stand with respect to the king of Poland, as elector of Saxony. That family, notwithstanding the marriage of one of their daughters to the dauphin, has certainly no attachment to the kingdom of France. On the contrary; whilst they are in possession, or have an expectation of the crown of Poland; they must court the favour of the House of Austria, and must be for preserving the power of that House; therefore, the present elector must naturally be inclined to have the archduke Joseph chosen king of the Romans; and if this subsidy had not been granted, I am persuaded, he would have been for bringing that election on as soon as possible; but as he may not think this absolutely necessary during the present emperor's life, our granting this subsidy will make him resolve to concur in every excuse for delaying it as long as possible, in order to oblige us to renew the subsidy as soon as the present term is expired; for if there be now any necessity for chusing the archduke Joseph king of the Romans, that necessity will become every year the more urgent, the more the present emperor advances in years; and consequently if there be now any reason for our granting subsidies upon this account, that reason will be stronger three or four years hence, and still much stronger twenty years hence, than it is at present.

I must therefore be of opinion, Sir, that it is not prudent in us to grant any subsidy upon the single account of getting the archduke Joseph presently chosen king of the Romans, not only because it will, as I have said, defeat the end intended, but because, if we grant a subsidy to any one elector upon this account, every other elector will expect the same; and if we should grant subsidies to all, or to a majority of them, it would render the election, when made, precarious; for it would furnish the French, and all such as might please to join with them, with a plausible pretence for declaring it a void election. Sir, I had almost said a justifiable pretence; for though in these subsidy treaties there be no express article for obliging the contracting elector to vote for the archduke Joseph, yet every one knows, and it has been publicly declared in this House, that such a stipulation is understood, and is truly the only consideration for our granting the subsidy; and we all know that it is as much contrary to the laws of the empire to carry an election by bribery and corruption, as to carry it by force of arms. The many princes of the empire who have been chosen kings of the Romans, and yet never succeeded to be emperors, or not till after cruel wars and great bloodshed, is a convincing proof, that the internal peace of Germany does not depend so much upon the ceremony of chusing a king of the Romans during the life of the reigning emperor, as upon taking proper measures for establishing such a cordial union among the electors, as that upon the death of the emperor they may all unite in the choice of a successor; and I doubt much if our interfering so openly, and at such an expence, in the choice of a king of the Romans, be a proper method for establishing that cordial union, especially as it tends so manifestly towards overturning the constitution of the empire, and rendering the imperial dignity hereditary, in the Austrian family; for there is no argument for the necessity of chusing a king of the Romans that can be made use of upon this occasion, but what may be made use of with equal weight by every future emperor of that family, as soon as he has the good fortune to have a son; and a question has now been started about who shall judge of this necessity, that, I fear, may produce confusion in the empire, because it is a question that, I am convinced, neither side will ever give up to the other.

When I say this, Sir, every gentleman must suppose, I mean the dispute arisen upon this occasion between the electors and the princes of the empire. The former say, that all questions relating to the election of an emperor, or king of the Romans, are to be determined by them alone; and consequently, that the electors are at all times the sole judges whether there be at any time a necessity for chusing a king of the Romans during the life of the emperor: on the other hand, the princes of the empire contend, that no king of the Romans should ever be chosen during the life of the emperor, but when it becomes absolutely necessary for the safety and quiet of the empire, and that whether this

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necessity at any time exists or no, is not to be determined by the electoral college, but by the diet of the empire. This, Sir, is the important question now brought upon the carpet; and when we consider, that the kings of Sweden and Denmark, the prince royal of Russia, the king of France, and the prince, now hereditary stadtholder of the united provinces, are all princes of the empire, without being electors, we may judge how improbable it is, that either of these two parties will yield to the other, how unfortunate it is that such a question should ever have been started, and how dangerous it would be to proceed to an election before this question be determined, or at least until the necessity of an election becomes manifest both to the diet and the electoral college; and in that case they would proceed to an election without any subsidy from us, and without having the question determined as to who are to be the judges of that necessity.

When this will happen, Sir, I do not know, and as little do I know what the hon. gentleman means by saying, he trusts it will happen next summer. I wish as much as he can do, that it may, but I do not so much as hope that it will; and this I will say, that if we, by granting subsidies to (which will be called bribing) a majority of the electors, should procure a king of the Romans to be chosen, whilst some of the chief electors and most of the great princes of the empire think that there is no present necessity for any such choice, we shall, I fear, be sowing the seeds of a civil war in Germany, and a very general one in Europe, instead of taking proper measures to prevent either the one or the other. Therefore, the procuring or hastening the election of a king of the Romans could be no good argument for our projecting or concluding this treaty; and the other argument, or motive, as the honourable gentleman called it, is one of that sort of arguments, which either does nothing, or does too much.

Are we to suppose, Sir, that any elector or prince of Germany is so extravagant, as to keep up a greater number of regular troops in time of peace, than his own proper revenue can spare to support, and at the same time, that he is so abandoned, that rather than retrench any part of this extravagant expence, he will unite with the enemies of his country, and sell himself a slave to France? God forbid, Sir, that we should ever have the least ground for such a vilifying supposition: I have so good an opinion of those princes in general, that I am convinced, no one of them will ever unite with France for any mercenary consideration; but we know, that an apprehension of the House of Austria designing to encroach upon the laws and liberties of their country, has, in former times, made many of them unite with France, in order to guard against those designs of that House, which they thought to be either ambitious or oppressive; and therefore in all our measures we ought to be extremely cautious of giving rise to any such future apprehension. It is our interest to support and preserve the power of the House of Austria; but this interest we shall defeat, if we do not take care to pursue it in such a manner, as not to give occasion for any such jealousy; for it is not the power of the House of Austria alone that we are to set up as a balance to the power of France, but the power of that House united with the power of the German empire; and whilst these two powers continue united, a little of our money, with the assistance of our navy, in time of actual war, will always render them an effectual balance.

This argument therefore, Sir, proves nothing, or it proves too much; for if we should refuse to grant any subsidies in time of peace, the princes of the empire would retrench their expence, unless they are entirely abandoned; and if they be entirely abandoned, they will certainly sell themselves to the highest bidder, in which France and Spain will certainly get the better of us; for whatever we may be in fighting, this nation alone is not equal to the power of those two monarchies in giving; and the Dutch, I fear, are unable to contribute any share: nay, I am afraid, that even as to the expence of this treaty, we must, some way or other, pay their share as well as our own; for, I believe, they are not able to pay it without making a reduction of their army; and if any troops are to be reduced, it is certainly more for our interest, as well as the general interest of Europe, that some of the princes of the empire should be obliged, than that the Dutch should be obliged to reduce the number of their regular troops.

Having thus, Sir, given my opinion very fully, and very freely, of the treaty now under our consideration, I shall conclude with declaring, that notwithstanding what I have said against the treaty itself,

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I shall concur with my hon. friend in his motion. Gentlemen, I see, are surprised at this declaration; but they have not so much reason, as they may perhaps imagine. Care will be taken, I hope, that the treaty shall not produce any ill-effect; and though the expence be, in my opinion, unnecessary, yet since his majesty has been advised to engage in it, I shall be for enabling him to make it good, because our refusal would derogate so much from his majesty's credit and influence abroad, that it might be attended with consequences much more pernicious than any that can ensue from our complying with such a trifle of expence; and whoever duly considers this, will cease wondering at the declaration I have made, and join with me in giving an affirmative to the motion now before us.

Mr. Solicitor General *Murray:*

Sir; although I highly approve of what the hon. gentleman who spoke last, was pleased to conclude with, yet as I have an opinion of the treaty itself very different from what he seems to entertain, I shall beg leave to give some of the reasons for the opinion I have formed. I must confess, it is with great diffidence, that I differ from him in any opinion, but especially in an opinion relating to any foreign treaty, which is a subject he has been so long conversant in, and in which he has done such eminent service to his country. As I am thus diffident, Sir, it will oblige me to be the more methodical in what I am to offer in favour of this treaty; and for this purpose, I shall consider the object, the view, and the principle of the treaty before us. As to the object, it is the election of a king of the Romans, in order to prevent any vacancy of the imperial throne upon the death of the present emperor, whose life I shall grant may in all human appearance be, and I hope will be of long continuance; but this no man can be sure of: he may, to the misfortune of Europe, and of this nation in particular, be suddenly cut off in the prime of his age, and this misfortune would be highly exaggerated, should he die before any election of a king of the Romans; for will any one say, that the Germanic body can act with such vigour, either in defending itself, or assisting its allies, when it is without any head, as when it is firmly united under one head? Will any one say, that a country which is possessed by so many powerful princes, all jealous of one another, and every one thinking himself entitled to some part of the territory possessed by his neighbour? I say, can a country in such circumstances be presumed to continue in peace, when it has no sole and supreme judge to apply to, nor any one person who has either the right or the power to enforce its laws, and to punish those who venture to transgress them?

I know it may be said, Sir, that during a vacancy of the imperial throne, the government of the empire devolves upon the two vicars; but as there is a dispute still subsisting between the elector Palatine, and the elector of Bavaria, about one of these vicariatships, and as the respective rights of the two vicars are far from being fully settled and ascertained by the laws of the empire, this very establishment, instead of preserving, might be the cause of disturbing the tranquillity of that country: nay, suppose that this establishment were fully perfected, so that no contest could remain upon that head, yet we cannot suppose, that they would have power enough to prevent some of the potent princes, their neighbours, from taking that opportunity to vindicate by force of arms those rights or possessions, to which they imagined they had a just title; or perhaps one of the vicars might himself be among the first to transgress the laws, and interrupt the peace of his country; and both these events we have the more reason to fear, because both actually happened during the last vacancy of the imperial throne. From all which, I think, we have the strongest reason to conclude, that should such a vacancy again happen, it would be impossible to preserve the internal quiet of Germany for so much as one day, and much less during the long interval which might happen before even a majority of the electors could be got to agree upon the choice of an emperor; for we may learn from the histories of that country, that they were once for at least 15 years before they could agree upon the choice of any emperor; and we are told, that during all that time, the whole empire, in Italy as well as Germany, was in the utmost disorder and confusion.

The object of this treaty is therefore, Sir, in the present circumstances of Europe, of the utmost importance even to this kingdom, as we do not know how soon we may have occasion for the assistance of the empire of Germany; consequently, the obtaining of this object is of infinitely greater value to us, than the

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small subsidy which his majesty has for this purpose engaged to pay to the elector of Saxony; and now, Sir, as to the view or design of this treaty, every one knows, that it is to get the present emperor's eldest son elected king of the Romans, which is a design that seems to be universally approved of; and indeed, the continuance of the imperial diadem in the House of Austria is so much for the interest of this country, that I should wonder at hearing it disapproved by any gentleman in this assembly; for the House of Austria, by means of their dominions in Italy, in the Netherlands, and upon the Rhine, will always be the most useful, and whilst they pursue their own interest, must be the most ready and willing assistant we can have in a war with the House of Bourbon, because with the House of Austria we can never have any material contest, and their security depends as much upon supporting the power of this kingdom, as our security depends upon supporting theirs.

I come, in the last place, to the principle upon which this treaty is founded, and that evidently appears to be the preservation of peace and a balance of power in Europe. The wisdom or the uprightness of this principle, Sir, I hope no gentleman will contest; and that the peace, as well as the balance of power, depends upon preventing a vacancy in the imperial throne, I have, I think, already demonstrated; but I will now go farther and affirm, that both depend, indisputably, in my opinion, upon continuing the imperial diadem in the House of Austria. As to the preservation of the peace of Europe, let me suppose, that a majority of electors, through French influence, for it can never be through any thing else, should, during the present emperor's life, or even upon his death, pass by his son, and chuse some other prince king of the Romans or emperor, would the House of Austria, could we, could the Dutch, or any independent prince in Europe, submit willingly and peaceably to such an illegal election? If we did, or if we should be all forced to do so, would there be any longer a balance of power in Europe? Would it be possible for any nation in Europe to stand against the power of the House of Bourbon, after their having established a vice-emperor in Germany? We might perhaps enjoy peace, but it would be such a peace as slaves enjoy, who submit tamely and patiently to the arbitrary commands of their imperious lords.

Thus, Sir, I have shewn that the object of this treaty is of the utmost importance even to us, that the view or design of it is universally approved, and that the principle upon which it is founded is not only just, but such a one as we must for our own safety, as well as the safety of Europe, necessarily pursue. Can we then disapprove of the treaty itself? This really seems to be a sort of paradox; and to support this paradox, two arguments are made use of, which to me seem to be inconsistent. In the first place, it is said, that the treaty will defeat the end intended by it; and to prove this, the princes of Germany are represented as such mercenary creatures, that they would expose their country to the danger of a destructive civil war, for the sake of enjoying a trifling subsidy from us for two or three years longer. Sir, I am surprized to hear such an unjust insinuation: the princes of Germany are generally known to be persons of great dignity as well as honour: they may have different ways of thinking, but I am persuaded, there is not one of them who would not despise any sum of money, when it came in competition with the true interest of their country, and this very treaty is a manifest proof of it; for the king of Poland had, until 1750, a subsidy from France of double the sum he is now to have from us, and without doubt might have had it continued, if he would have accepted of it upon her terms: every subsidy we now pay, or may hereafter pay, is a proof of the honour and public spirit of the princes of Germany; for there is not one of them who might not have a higher subsidy from France than we are able to pay. It is amazing what sums of money are paid yearly by France, by way of subsidy to foreign princes and states; I have lately seen an authentic list of them, from which it appeared that, reckoning a livre at a shilling, the French now pay yearly 300,000*l.* sterling to the king of Prussia, the same sum to the king of Sweden, 120,000*l.* to Denmark, 50,000*l.* to the elector palatine; besides the subsidies they pay to the elector of Cologne, the cantons of Switzerland, the republic of Genoa, and the princes of Parma and Modena. Nothing therefore but a true regard to what they think the interest of their country, can induce any prince in Germany to accept of any subsidy from us; and if any gentleman thought otherwise, he should be cautious of expressing his sentiments, or rather suspicions, in this House; for he



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should consider, that there are always many strangers in our gallery.

But gentlemen seem to be conscious, Sir, that this charge of venality against the princes of Germany can gain no credit, therefore they shift the scene, and then those princes are represented as persons acted only by a true public spirit; from whence it is inferred, that if an immediate election of a king of the Romans be necessary for the safety of the empire, those princes would proceed to it directly, and agree in it unanimously, without any subsidy from us; and particularly with respect to the king of Poland it is said, that not only his regard to the true interest of Germany, but his regard to his own interest, must prevail with him to concur in chusing the archduke Joseph king of the Romans as soon as possible, because he cannot otherwise secure the crown of Poland to himself and his son after him. Now, Sir, as to the general argument I must observe, that it seems to be the opinion of every gentleman in this House, not only that the archduke Joseph should be chosen king of the Romans, but that he should be chosen as soon as may be. This, I say, seems to be the unanimous opinion here, but this, it is plain, is not the unanimous opinion of the electors and princes of Germany, otherwise the election would already have been made. I am far from supposing that we can, by a subsidy, induce any of those princes to be of our opinion: no, Sir; this must be done by negociation and argument; and when we have so far succeeded in this way, as to bring any one over to our opinion, is it not prudent in us, is it not our interest to strengthen his hands as much as we can, by granting him a subsidy, especially as we know, that France is doing the same with respect to all those who are at present of the same sentiments with her? for I have so good an opinion of the king of Prussia and the electors palatine and Cologne as to think, that it is not the subsidies they have from France, that makes them refuse to concur in the election of a king of the Romans, but because they are not yet convinced of its being necessary for the safety of the empire; and as France is thus strengthening the hands of all those that are of the same sentiments with her, I shall freely own, that if it were in our power, I should be for our being equal with her in this respect; but as this is not in our power, we must trust to the justice of our cause more than to the weight of our purse; yet I cannot think, we ought to trust entirely to the justice of our cause, for if we neglect any means we have in our power, we shall deserve to be neglected by Providence.

Then, Sir, with regard to the particular argument relating to the king of Poland, considering his conduct in the late war, I am surprized any one should think him so much attached to the House of Austria, as that no consideration can separate him from the interest of that House. Did he not soon after the beginning of the late war join in the confederacy against that House? Did he not continue to exert his utmost strength in favour of that confederacy until he found himself forsaken by the Prussians, and the French as well as the Bavarians unable to give him any assistance? Therefore the gaining of him, who is one of the vicars, and the only undisputed vicar in the empire, must be allowed to be a new, and a very considerable acquisition to the common cause; and it is of the more consequence, as it may prevent a war upon the next election of a king of Poland, as well as upon the next election of an emperor of Germany; for I am of opinion, that no election either of the one or other can ever now happen without a war, unless very prudent measures be previously taken for preventing it. Had he continued in the interest of France until his death, and his son had set up upon the same interest to be chosen king of Poland, that election would certainly have occasioned a war; for neither the Austrians nor the Russians will ever allow any one in that interest to be peaceably established upon the throne of Poland: whereas, now he has again attached himself to the House of Austria, they would both, in case of his death, support the election of his son; and the French would then probably find themselves as unable to oppose the election of the son, as they were before to oppose the election of the father; therefore they would rather peaceably submit, than engage in a war which, from experience they had learned, they could not carry on with success.

I hope, Sir, I have now given sufficient reasons for thinking this treaty one of the wisest and most useful we ever made: but if I have failed in this point; if there be still any gentlemen in this House, who do not approve of the treaty, I hope they will concur with my hon. friend who spoke last, in approving of the motion; for every one, I suppose, will join with him in this



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ng, that it would be of the most dangerous consequence to refuse enabling his majesty to fulfil a solemn engagement which he has already entered into. Such a refusal would render it impossible for his majesty, or any succeeding sovereign of this kingdom, to conclude any treaty that required a new expence; and as sudden emergencies often require the immediate conclusion of expensive treaties, the many fatal effects of such an impossibility, I am persuaded, I need not detain the House by an attempt to explain.

Mr. *William Beckford:*

Sir; I sit here as an English gentleman, and as such I have a right to talk freely of the greatest subject of this kingdom, much more of the greatest subject of any foreign state: I shall therefore deliver my sentiments upon this subject without any reserve: if there be persons in this House belonging to any of the princes of Germany, they ought not to be here; and if they are, they must take it for their pains; for their presence will never, I hope, keep any member of this House so much in awe, as to prevent that freedom of speech, which is allowed even by our own sovereign; and whatever some gentlemen may think, it must be allowed, when duly considered, that no debate of the kind now before us, can tend much to the honour of the princes of Germany: we desire nothing of the princes of Germany, nor of any prince in Europe, but to concur in such measures as may be necessary for preserving their own liberty and independency. On the other hand, what is desired by France? What does she scatter her subsidies for among the princes of Europe, but to get them to be instrumental in forging their own chains? If this be truly the case, Sir, can it be for the honour of any prince of Germany, or of Europe, to suppose, that he will accept of a subsidy from France, unless we agree to grant him one? And if this be not the case; if our ministers be desiring them to concur in any measure, which is not necessary for the preservation of their own liberty and independency, I am sure, no member of this House, who thinks so, will consent to the granting of the subsidy, unless he be subsidized himself as well as the prince for whom the subsidy is required.

Now, Sir, with regard to the measure, for which the present subsidy is required, I mean the election of a king of the Romans: whatever I may think, whatever any gentleman of this House may think of that measure, we must for the honour of the princes of Germany suppose, that few or none of them think it absolutely necessary for preserving the liberties and privileges of the German empire, because I do not find that any of them will concur in it without a subsidy from us. From their behaviour upon this occasion I must suppose, that some of them think it a measure of the most dangerous consequence to the liberties and privileges of the German empire, and that others of them think it a matter of such absolute indifference, as no way to tend either to the destruction or the preservation of the liberties and privileges of that empire. These last may think themselves at liberty to concur in it, in consideration of a subsidy from us; but if they be right in their opinion, surely we ought not to load our constituents with any such unnecessary expence, even supposing that the nation were not only free of debt, but also in the most flourishing circumstances; and I must be of opinion, that in prudence as well as modesty, we ought to allow, that the princes of Germany are better judges than we are of the constitution and true interest of their own country. I say, Sir, in prudence as well as modesty; for if we should pretend to be better judges than they, and to compel them or any of them to be of our opinion, we shall of course furnish France with a party in Germany, which may enable her to overturn the liberties of Europe as well as of Germany; because the dispute will not then be about liberty and independency, but whether they shall be obliged to submit to the two Houses of Bourbon, or to the two Houses of Brunswick and Austria.

From what I have heard in this debate, Sir, it seems to be almost the unanimous opinion of this assembly, that an election of a king of the Romans would be an additional security for the peace of Europe and tranquillity of Germany, without being of any dangerous consequence to the liberties and privileges of the empire; but it is certain, that this is not the unanimous opinion of the electors and princes of that empire; for if it were, we should have no occasion to grant any subsidy. With regard to them, the case, in my opinion, appears plainly to be thus; there are three electors and many princes, who think an election of a king of the Romans during the life of the emperor, of such

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dangerous consequence to the liberties and privileges of the Germanic body, that it ought never to be made, without an absolute and apparent necessity, for which there is not, they think, the least pretence at present: there are two, and I believe no more than two electors, who think, or pretend to think, that such a necessity now exists; and the rest of the electors and princes think the election itself a matter of such indifference, that they may allow themselves to be determined by a subsidy from us. In these circumstances we may see, that by granting subsidies to all these indifferent gentlemen, we may perhaps get at last a majority to concur in the election of the archduke Joseph, even during the life of his father, the present emperor. I say, perhaps; because as the question has now been started, whether the electoral college or the diet of the empire be judges of this necessity, I doubt much if the elector of Mentz will venture to convoke a diet of election, before this question be determined, even though a majority of the electors should concur in requiring it. But suppose that we should by means of our subsidies, obtain a majority of the electors, and that we should get the elector of Mentz to run the risk of convoking a diet of election at their request, the question is, whether such an election would not rather precipitate a war than protract a peace. We may, I think, be well assured, that those who think the election of a king of the Romans a matter of indifference, will never join in raising any disturbance on account of its being delayed, and indeed the delay can furnish no sort of pretence for a war; but will it be the same, in case an election be made against the declared will of three of the most powerful electors of the empire, and before the diet of the empire has come to any determination with respect to such an election's being necessary? Will not these three electors think their rights invaded? Will not all the princes of the empire, who are not electors, think their rights invaded? And will not both have at least a pretence for saying, that the Houses of Austria and Brunswick, with the help of English money, are going to oppress the liberties of the Germanic body? Can we think, that those electors and princes would sit quietly down under such a supposed usurpation of their rights; can we expect that France would not presently send her armies again into Germany, under pretence of being called upon as guaranty of the treaty of Westphalia?

Such an election, Sir, if it could be brought about, would therefore, in my opinion, be so far from being an additional security for the peace of Europe, or the tranquillity of Germany, that I am convinced, it would produce an immediate war in Europe, with this disadvantage, that the greatest part of Germany, and probably both the northern crowns, who are both princes of the empire, would join with France against us; in which case the Dutch, I believe, would be wise enough to secure themselves by a neutrality, as they did in the year 1734, or perhaps, embrace that project so often offered to them by France, of dividing what is now called the Austrian Netherlands between them.

Thus, Sir, our success in bringing about such an election would, in my opinion, be one of the most unlucky events that could happen to us; but this, I confess, I do not much apprehend, because whilst there is a division in the empire about the necessity of chusing a king of the Romans, I believe, the elector of Mentz will never venture to summon a diet of election. Consequently I must think, that whilst such a division subsists, our granting of any subsidy on account of getting the archduke Joseph chosen king of the Romans, will be an endeavour to purchase what it is not possible to purchase, and consequently will be a squandering of the public money, which instead of agreeing to, we are in duty bound to prevent. Nay, supposing, Sir, that there were no such division in the empire: supposing that all the electors and princes thereof thought it necessary for the security of the empire to proceed to an immediate election, and to chuse the archduke Joseph king of the Romans, yet still I should think, that our granting of any subsidy upon that account, would be a squandering of the public money; because it would be giving away our money for doing that which would certainly be done without our putting ourselves to any such expence. Again, if we suppose, that all or most of the electors and princes of Germany think, that the electing of the archduke Joseph king of the Romans is a matter of such indifference, that they may without any danger proceed to it directly, or let it alone till after his father's death; I will say, that in this case our granting a subsidy to any one of them, for the sake of hastening the election,

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would be worse than squandering, because it would rather retard than forward the election, as every one of the rest would be for delaying the election, in hopes of getting a like subsidy from us; and surely, it is not to be imagined, that we can, or ought to grant subsidies to every elector and prince of Germany upon any account whatsoever.

I have hitherto supposed, Sir, that all the electors and princes of the empire are men of true honour and public spirit, and that none of them can be biassed by any mercenary consideration to act against what they think the true interest of their country; the farthest I have yet gone is to suppose, that some of them are not men of such great foresight and deep penetration as our wise ministers, which is the cause they think that a mere matter of indifference, which our ministers in their great wisdom clearly perceive to be of the highest importance; but really from the arguments made use of by the advocates for this motion, one would be apt to imagine, that the electors and princes of Germany, or some of them at least, are as venal as any of our little boroughs in England, and that if we did not bribe them to act for the interest of their country, they would accept of bribes from France to act against the interest of their country; therefore if any in this House have occasion to be cautious how they express themselves upon this subject, it is those who plead for this motion, not those who plead against it; for I defy any man to advance one solid argument for our giving money for the sake of getting a king of the Romans chosen, without making a supposition, that can no way tend to the honour of the electors at that election; therefore, I hope, the gentlemen who pretend to have so great a regard for the honour and dignity of the electors and princes of the empire, will drop the reason they have assigned for our granting the subsidy proposed, and furnish us with some other reason, before they desire our concurrence with their motion; for, I think, I have clearly shewn, that if the electors and princes of the empire are men of true honour and public spirit, the election of a king of the Romans could neither be the object or the view of the treaty now under consideration, nor the principle upon which it was founded.

But, Sir, that I may consider this treaty in every possible light, I hope, I may now join with its advocates, without offence to any member of this House, whatever may happen as to others, in supposing, that the electors and princes of the empire, or some of them at least, would join with France against us and the true interest of their country, if we did not prevent it by granting them subsidies in time of peace as well as war. I confess, Sir, that in time of war we have long acted in such a manner, as if we alone were concerned in preserving a balance of power in Europe; but I think we never before last year began to act so in time of peace, and when no immediate rupture was so much as apprehended. In short, Sir, we have so long acted in this manner, and have thereby so much exhausted our strength, that we can no longer continue to act in the same manner; therefore, if the princes of Germany and some of the other princes of Europe, think of throwing always the labouring oar upon us, we must resolve to drop our oar, and betake ourselves to our own bottom, before our strength be so much impaired as not to be able to take care of ourselves. This, I trust in God! we may still do, if we confine ourselves to our own element, and resolve to carry on no war but by sea. If we cannot do this; if we cannot defend ourselves by sea both against France and Spain, should both join against us, we must be undone; for it is impossible for us to carry on a new land war upon the continent of Europe, at the same expence we did the last. 'La derniere Guinea l'emportera' was an expression of Lewis 14, who understood the methods of carrying on a war as well as any man; and by the high interest of money we are forced to borrow, the expence of transporting troops, paying subsidies, and often paying for troops which do us very little service, an army upon the continent of Europe will always cost us more than double the number costs the French and Spaniards; therefore, considering our present load of debt and mortgage of our public revenue, we shall be in any such war reduced to the last guinea, long before our enemies.

This we had like to have fatally felt in the last war: for had it not been for our success at sea, and the difficulties and danger which the French colonies and commerce were thereby reduced to, we should have been obliged to have offered a *carte blanche* to our enemies, because it would have been impossible to have raised money for carrying on the war during another campaign, without seizing upon that

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fund which is appropriated to pay the interest, as well as that which is appropriated to pay the principal of our public debts.

We must therefore resolve, Sir, never from henceforth to be the first to take the alarm at the balance of power's being in danger, nor to suppose that it is, when no state in Europe thinks so but ourselves, at least none but such as have some particular and private interest in view, which they disguise under the mask of that public interest, called the balance of power. When this balance is in real and apparent danger, the princes of Europe will be ready enough to exert the utmost of their strength, without any subsidy from us, even in time of war; and when this balance is not in any real and apparent danger, no subsidy in time of peace can secure their concurrence with us in any future measure, which we may think necessary for guarding against a danger they are not sensible of. This we may learn from experience as well as common sense; for the late behaviour of the elector of Cologne is a proof of the little dependence we can have upon any previous subsidy; and some others may perhaps act with less candour than he has done; because he openly and candidly threw up his subsidy as soon as he resolved not to concur with us, whereas some others may for years continue to receive our money, and yet find from time to time an excuse for delaying to concur in that measure, for which the money was granted.

Having now, Sir, considered this subsidy in every possible light, and having shewn, that in every one it must be deemed a squandering or worse than squandering the public money of this nation, I hope, my assent to the motion will not be expected; for surely we are not to lay it down as a maxim, that we must grant every foreign subsidy which our sovereign may be advised by his ministers to promise, and a refusal can never be attended with less dangerous consequences than in the case now before us.

Sir *William Yonge:*

Sir; although the hon. gentleman who spoke last, was not pleased to give us his own opinion, whether he thought an immediate election of the archduke Joseph a right or a wrong measure, yet he found himself obliged to acknowledge, that its being a right measure seemed to be the unanimous opinion of this House; and indeed, the case is so clear, that I do not see how it could be otherwise; for if a vacancy in the imperial throne be an event that must always be attended with the utmost danger of causing a civil war in Germany, two chances against that event is certainly better than one. Besides, Sir, that it is a right measure, and that it will tend to preserve the tranquillity of Germany, and consequently the peace of Europe, is evident from the monstrous subsidies granted by France to some of the princes of the empire: to whom does France grant her subsidies? Not to any of those princes that are for chusing the archduke Joseph king of the Romans, but to those only who declare themselves against it. These two considerations, Sir, must convince every unbiassed man in Europe, that it is the interest of the empire to have the archduke Joseph elected king of the Romans as soon as possible: but princes are like other men; they are often biassed, and their understandings hoodwinked by their passions. Some of them are governed by their ambition, their jealousy, or their resentment; and this prevents their seeing what so clearly appears to be the true interest of their country: these have been carefully culled out by France, and by large subsidies enabled to keep numerous armies on foot, in order to intimidate the rest, or at least, to render it dangerous for them to pursue the true interest of their country, by proceeding to an election, and chusing the archduke Joseph king of the Romans.

These, Sir, are the true circumstances of Germany at present, and in such circumstances how are we to behave? Will any gentleman say, that it is not the interest of this nation to prevent a civil war in Germany? Will any one say, that it is not our interest to preserve not only the union but the activity of the Germanic body? Can it be supposed, that the empire is not more exposed to the danger of a civil war during a vacancy of the imperial throne, than when it is full? Can it be supposed, that the Germanic body can be so well united or so active without a head as with one? What are we then to do? Certainly, to prevent any such vacancy if possible. How are we to do this? The method is plain and obvious: by negociation, by reason and argument, we must endeavour to remove the prejudices, to overcome the passions, and to convince the understanding of the electors and princes of the empire, that it is their own interest to proceed as soon as possible to

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an election of a king of the Romans, and to make that choice fall upon the archduke Joseph. But this is not all we have to do: when we have succeeded in this with any one or more of them, they will of course answer; we approve of what you say: we see that what you propose is right; but there is such a one has a great standing army on foot, and he will presently invade us, and swallow up our whole territory before we can possibly provide for our defence, should we comply with what you desire, and what we ourselves allow to be right. What reply can we make? Can we make any other, than that we will by a subsidy enable you to keep up such an army as may be sufficient for your defence, until we and our allies can come to your assistance?

Thus, Sir, gentlemen may see, that the subsidy is not given, nor accepted, out of any mercenary view. It is given only to enable our friends to act freely, and to despise the menaces of those, who by their ambition, jealousy, or resentment are led to oppose the true interest of their country, and are hired by France to declare themselves enemies to this nation. As we desire nothing of any of the princes of Germany but what is for their own interest as well as ours, it is to be hoped that we shall soon engage such a party in Germany as will be able to despise the menaces of the French party in that country, and when we have done this, we have done our business; for they will be able to protect the rest, and then all true German patriots may act freely, and may without danger declare themselves in favour of an election of king of the Romans: nay, even those who are now led by their passions to oppose that election, when they see that they can thereby gratify none of their governing passions, they may give up their opposition, and join with the rest of their countrymen in securing the future quiet of their country. But suppose, Sir, that we should not succeed in getting the archduke Joseph chosen king of the Romans in the life-time of his father, do gentlemen think that the subsidies we now grant will be of no service? Sir, next to preventing a vacancy in the imperial throne, the principal thing we are to take care of is, that if such a misfortune should happen, it shall be of as short a continuance as possible; and for this purpose the best thing we can do, is to engage before-hand a majority of the electors to chuse that prince for emperor, who will be least under the guidance of France, and most attached to the interest of this kingdom; and at the same time to fortify that majority, so as to render any forcible opposition to their choice of the most dangerous consequence to the undertakers.

I think, Sir, it is unanimously agreed not only in this House, but by all the princes of Europe who are friends to a balance of power, that in case the present emperor should die before the election of a king of the Romans, the only method for preserving the peace and a balance of power in Europe, would be to chuse his son the present archduke Joseph to be emperor, even though he should be at that time under age. This choice, I am sure, it would be the interest of this nation to recommend and support; and I am as sure, that France will leave no stone unturned for the preventing this choice. As I am no way acquainted with the secrets of the cabinet, I cannot positively say, but I shrewdly suspect that she is already taking measures for this purpose. Perhaps she has already a prince in her eye, who by her influence, and under her support, is to declare himself a candidate for the imperial diadem. This may be the cause that she is already doling out her subsidies so bountifully to the princes of Germany; and we know, that unless the three ecclesiastical electors be secure of an immediate and powerful assistance, they must either fly their respective territories, or vote at the next election according to the orders sent them by the court of Versailles. When we know this, or at least when we have great reason to suspect such secret practices, would it not be madness in us to think of no previous measures for defeating them? The house of Austria will certainly do all they can; but they are by themselves alone as little able to withstand the influence of France in time of peace as her power in time of war. We must give them our assistance in time of peace as well as war, if we are resolved to preserve a balance of power in Europe, and consequently our own independency. How are we to do this? Is there any other way than that of persuading as many of the electoral and other princes of Germany as we can, that it is their interest as well as ours to continue the imperial diadem in the House of Austria; and to enable such of them as yield to our reasons, to have always such a body of regular troops on foot, as, joined with the armies of Austria, may prevent them or any prince in Ger-

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many from being forced by their powerful neighbours to act against the true interest of their country?

In this light, Sir, I consider the treaty and the subsidy now under consideration, and in this light I must look upon it as a most prudent step, whether we succeed or not in the design of getting the archduke Joseph chosen king of the Romans during the life of his father, the present emperor. I should be glad that a balance of power could be preserved in Europe without our intermeddling in the affair, or being at any expence upon that account; but whilst France is at a great expence in time of peace as well as war, for carrying on her ambitious design of overturning that balance, and rendering herself the sole arbitress of all the affairs of Europe, we must be at some expence in time of peace as well as war, in order to defeat that design. As her design is contrary to the real and remote interest of all the princes of Europe, however much some of them may be blinded by an imaginary and immediate interest; she must carry it on with great art, and her expence must always vastly exceed any expence we may have occasion to be at; but still we must be at some, otherwise when her design comes to be ripe for execution, she may have such a number of the princes of Europe pre-engaged to assist her, that it will be impossible for us and the few allies we have left, to oppose, much less to prevent, the execution, which will certainly be immediately directed either against the House of Austria or against this nation; because the destruction of either would be an accomplishment of her design, as it would then be impossible for any potentate of Europe, or even for any confederacy that could be formed in Europe, to withstand the power of France, or to dare to disobey her orders.

This, Sir, the House of Austria are fully sensible of, and therefore, if we should ever be attacked by France or Spain, or by both at once, we may depend upon it, that at our desire the whole power of that House, and of all the allies that either of us could engage, would be employed in attacking France, or the Spanish branches of the House of Bourbon settled in Italy, at land; and whilst this continues to be the case, we have no occasion to be afraid of being attacked, not even by all the branches of the House of Bourbon together; for when they are engaged in a heavy war at land, it will be easy for us to encounter them altogether at sea. But I confess, I have not such an opinion even of our naval strength, as to imagine that we should be able to carry on with success a naval war against the united force of the House of Bourbon, if their force were no way diverted by a land war. And let us consider, Sir, that if they should, by any accidental misfortune happening to us, become superior to us but for one month or two at sea, we should be undone: because in that time, France would pour in her numerous armies upon us, and by that means put it out of our power to defend ourselves either by sea or land.

For this reason, Sir, whilst the several branches of the House of Bourbon continue to be so united as they seem to be at present, and whilst the two chief branches of that House are attempting to make such incroachments upon us, I think we should take care not to be obliged to stand alone in a war against the united power of that House; and this we can only do by preserving the power of the House of Austria, by continuing that House in the possession not only of all its present dominions, but also of the imperial diadem, and by cultivating as much as possible a cordial union between the head and the several members of the Germanic body. This union it has always been the business of France to interrupt: For this purpose she has omitted no art, she has spared no expence; and on this account she is now more diligent and at a greater expence, than she ever was heretofore. Is this therefore a time for us to betake ourselves to our own bottom, or to grudge the expence of two or three small subsidies, when the fate of Europe and consequently of this nation, hangs upon the single thread of the present emperor's life; when it is almost certain that this fate would be determined against us, if we do not take care to attach to the House of Austria as many of the princes of the empire, as we can possibly prevail with to embark in that cause?

This is so evident, Sir, and so obvious to every gentleman who considers the present circumstances of Europe, that I was surprised to hear the least objection made to the treaty or subsidy now under consideration; and I am persuaded, that the opposition arises from gentlemen not duly attending to the great change that has been occasioned in the state of affairs in Europe, by the whole Spanish monarchy being brought under the dominion of a branch of

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the House of Bourbon. Whilst that monarchy was under the dominion of a branch of the House of Austria, that House was of itself a match for the House of Bourbon, and therefore it was not necessary for this nation, or any of the other powers of Europe, to give themselves much trouble about the quarrels between these two Houses; but the Austrian scale is now become so light, and the other so heavy, that other states, and in particular this nation, must upon every occasion throw themselves into the former; and the more of the states of Europe we can get to join with us in doing so, the less of our own weight will it be necessary for us to throw in; consequently, this treaty, with the subsidy attending it, I must look on as a piece of the greatest economy, instead of being a piece of extravagance. It is a present expence of a few thousands, which may hereafter save us the expending of millions; for which reason I shall most heartily give it my concurrence.

Lord *Strange:*

Sir; whether the immediate election of the archduke Joseph as king of the Romans, be a right or a wrong measure, is not the question now before us; for a measure may in itself be right, that is to say, it may be the interest of this nation to have it brought about, and yet it may be wrong in us to attempt it, or at least it may be wrong in us to become the chief actors, and to be at the chief expence in bringing it about. To prove this, I need not dive very deep into the history of past times, or the politics of future. To have had the pragmatic sanction of the late emperor religiously observed, and all his dominions transmitted entire to his next successor, was in itself a right measure; but in the circumstances Europe was thrown into by his death, it became impossible to be accomplished, and our intermeddling in it so much as we did at the beginning, that is, when the king of Prussia first invaded Silesia, not only brought on the last war, but brought the House of Austria to the very brink of destruction; for if we had then plainly told the court of Vienna, that we could not intermeddle in their dispute with the king of Prussia, that court would probably have come to an agreement with him at the expence of a small part of Silesia; and if they had done this, I am persuaded, no war would have happened in Europe, because, if those two powers had by such an agreement, been firmly united, no other prince in Europe would have ventured to attack the queen of Hungary, nor would France have ventured to prompt any of them to do so by a promise of her assistance; for the Dutch and we, with the assistance of Prussia, would have been able to support that House against any confederacy that could have been formed against it; but by the promises we made to the court of Vienna, and the projects we at first formed against Prussia, we prevented any such agreement, and thereby occasioned such a confederacy to be formed against the queen of Hungary, that we ourselves were obliged to agree to a neutrality, which we were forced to observe, until by the bad conduct of the French generals, we got that agreement brought about, between the queen of Hungary and the king of Prussia, which we ought at first to have insisted on.

But this agreement, Sir, was far from having the same good effect it would have had at first: it put an end, it is true, to the war between those two powers, but it did not establish a friendship between them, though the king of Prussia got by it a greater part of Silesia than he would have been at first satisfied with. On the contrary, he was now engaged in a defensive alliance with France, and he foresaw, that his quiet enjoyment of what he had got would depend upon his preserving that alliance. Though we were fully apprised of this circumstance, yet we soon after engaged in a measure, which was likewise right in itself, but it was very wrong, it was even ridiculous in us to engage in it at that time; and we certainly would not have engaged in it, if we had not been governed, and I may say blinded, by an interest which was far from being the interest either of Britain or of Europe. The measure I mean was that of conquering and taking from France some territory, to be given to the queen of Hungary as an equivalent for what she had yielded to the king of Prussia. This, I say, was in itself a right measure; but considering the alliance then subsisting between France and Prussia, it was ridiculous at that time to think of it, as we soon found by experience; for the moment we made an impression upon France in Alsace, the king of Prussia, in pursuance of his alliance, renewed the war, and attacked the queen of Hungary in Bohemia.

Thus, Sir, from a very late part of the history of past times it appears, that a mea-

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sure may in itself be very right, and yet it may be wrong in us to embark in it; and now with regard to the politics of future times, it would be right, that is, it would be for the interest of this nation, not only to have the imperial diadem continued, but to have it made hereditary in the family of Austria. Nay, I will go further, I believe, it would be our interest to have that family established in an absolute sovereignty over the whole German empire; and however much this might be contrary to the interest of the princes of Germany, I believe, it would not be repugnant to the interest of the people in general; for they might, perhaps, live more happily, and extend their trade more easily, by means of their great navigable rivers, than they can do at present; and if the emperor was as absolute in Germany as the French king now is in France, I am sure, we should have nothing to fear from the overgrown power of the House of Bourbon. If it were possible, therefore, to render the House of Austria the absolute and hereditary sovereigns of the whole German empire, the measure would be right in itself; but will any one say, it would be right in us to attempt it? So far otherwise, Sir, that we should most cautiously avoid engaging in any project that may seem to tend this way; because it will always give France a great advantage over us. The princes of Germany know as well as we do, that it is our interest to render the emperor their absolute master, and that, on the other hand, it is the interest of France to preserve their independency. We should therefore be extremely cautious of engaging in any measure, that may but seem to have a tendency towards overturning what they call the liberties of the Germanic body, because in that case it would be easy for France to persuade many of them to accept of subsidies from her, and to join in her measures, under pretence of her having no other view but that of preserving their independency, which it is so much her interest to take care of, because, whilst that is preserved, they will never assist the House of Austria in any ambitious projects against her.

Now, Sir, I shall leave to gentlemen to consider, whether our being so very solicitous about having the archduke Joseph chosen king of the Romans in the life-time of his father, may not seem to some of the princes of Germany, as a step towards overturning their liberties; for we all know, that for the preservation of their liberties, they depend very much upon the capitulations that are to be signed and sworn to by every emperor at his election. If any thing has been practised during the former reign, if any innovation has been introduced, that may seem of bad consequence towards their liberties, they take care to provide against it by a capitulation at the next election. But they say, and rightly say, that were the son to be chosen in the emperor his father's life-time, the reigning emperor might have so much influence as to prevent any such capitulation being insisted on, and thus their liberties might by degrees be rendered precarious, and at last utterly subverted. This is the reason, Sir, that the princes of Germany have always been so shy of chusing a king of the Romans before the death of the emperor; and this reason will, I fear, now prevail, notwithstanding all the subsidies we have granted, or can grant. The measure may perhaps be right; but our interposing in it so earnestly and so openly is wrong. Nay, if any thing should occasion a contest about the election upon the present emperor's death, it will, in my opinion, be our having appeared so strenuously for the election of his son during his life. Besides, I really doubt whether it be the interest of the present emperor to have his son chosen king of the Romans during his life-time. It is not the interest of any sovereign prince to render his son and heir apparent entirely independent of him; for in history we often find the son endeavouring to dethrone the father; and if we consider what circumstances the present emperor would be in, if the present empress should die before him, we must conclude, that it would not be very safe for him to have his son chosen king of the Romans previous to that event; for the son would then of course succeed to all the dominions of Austria, so that the emperor would be reduced to the single duchy of Tuscany, where the son, if he were then likewise king of the Romans, might tell him, he must go and reside, and leave the government of the empire to him. Nay, perhaps he might tell him, that as he was then grown old and unfit for this world, he must follow the example of his ancestor Charles 5, by retiring to a monastery, and leaving to him the duchy of Tuscany, as well as the imperial diadem. Whereas, if the son be not chosen king of the Romans before that event, he must depend upon his father the emperor for his success in



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being elected, and must continue that dependence during the life of his father.

For this reason, Sir, I think I am well grounded in doubting, whether the court of Vienna itself be sincere and hearty in this project of an election. To be sure, that court will not oppose our granting subsidies to as many of the German princes as we please, upon this or any other account; and it is as certain, that few, if any of those princes will refuse our subsidies, as nothing more in return is required of them, than to keep a number of regular troops on foot, which they would keep on foot without any such subsidy, and to promise to concur with us in what they may think for the interest of their native country. But I do not think, either that the court of Vienna will for our sakes attempt to bring on the election of a king of the Romans sooner than they think proper, or that any prince in Germany will for the sake of our subsidy vote for the bringing on of that election sooner than he thinks the safety of his country necessarily requires; and as soon as that necessity exists, he will vote for bringing it on, and will give his vote for whom he thinks the most proper candidate, without the least regard to the subsidy he has had from us.

This, Sir, is my opinion of the sovereign princes of Germany, and I hope no gentleman will find fault with me for having so good an opinion of their honour and public spirit; though I find that the two hon. gentlemen upon the floor over-against me, both of whom, I shall allow, are well versed in the business of elections, seem to differ from me in opinion: they both think, that a subsidy, or if you please, a bribe, will have great weight at the next election; but they differ in the method of applying it. The hon. gentleman who spoke first, and who moved the question now under our consideration, seemed to place some confidence in the honour of the elector, and therefore he was for granting the subsidy before the election; but the other gentleman was for making sure work, and therefore he was not for parting with his money until after the business was done. Now of these three opinions it must be admitted that mine is the most charitable, and it is attended with this further advantage, that if it be agreed to, we shall save our money. But says the hon. gentleman who spoke last, these subsidies are not to be granted for engaging the votes of the electors, but for enabling them to vote freely at the next election, by assisting them to keep up such a number of regular troops as may defend them against any that shall attempt to put a force upon them.

I shall grant, Sir, that this is a new and a most ingenious conceit; but unluckily there does not appear to be any such stipulation in this subsidy treaty, nor in that we agreed to last year. They are indeed obliged to have a certain number of troops ready for our service; but every one knows, that both those princes always did keep up a much greater number of troops than they promise to have ready for our service: whereas, if the design of the treaty had been such as the hon. gentleman represents, the stipulation should have been, that they should for the future keep up so many thousand more than they have usually done in time of peace, and that the additional number should always be ready for our service. Besides this, Sir, there is another misfortune attends this conceit, which I fancy will alarm some gentlemen amongst us; for if this be the design of the subsidy, it must be continued until a king of the Romans be chosen, which may not be for these forty years to come, as the present emperor may live till he be 84 years of age; and I doubt much, considering the important question now started in Germany, if we shall be able with all our subsidies to bring on an election before his death.

This, Sir, would be such an expence as even our ministers, I believe, never imagined the nation would bear, notwithstanding the ready compliance they have so long met with, as to every expence they have been pleased to load us with; therefore I cannot suppose, that this was any of their reasons for agreeing to this subsidy; and in short, Sir, every reason that has been assigned by our ministers, or their friends, for our granting this subsidy, appears upon examination to be so chimerical, that I must suppose, there is a reason in petto, which has not been, nor ever will be mentioned by them. If we had before us a list of all the important affairs now depending before the diet of the empire at Ratisbon, we might perhaps be able to discover and point out the true reason for granting these subsidies. By numerous assemblies the problem among civilians, 'num datur casus pro amico,' is always determined in the affirmative: friendships and connections always add great weight to the arguments that are made use of in such

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assemblies, for either of the contending parties; and though a subsidy could not procure the corrupt vote, it may procure the friendship, and that friendship may bias the judgment, even of a sovereign prince of Germany. In this light, therefore, a subsidy may be wisely and usefully granted; but the misfortune is, that if we should obtain a decree of the diet in our favour, I am afraid, an appeal would be made to the *ultima ratio regum*; and how this appeal might be determined I shall not pretend to foretel; though I may venture to prophesy, that the subsidies we now grant would contribute very little towards its being determined in our favour; and if it were, the prize would, to this nation at least, be like a Newmarket plate, not near worth the expence of obtaining it; consequently, even this reason, which is the best that can be assigned, ought not to prevail with us, in our present circumstances, to put ourselves to any expence.

Before I sit down, Sir, I must beg leave to consider a little that hobgoblin, the danger of our being involved in a war with the whole House of Bourbon, and the necessity we should then be under of calling upon our allies to attack some of the branches of that House by land, whilst we carried on the war against them by sea. In the first place, I believe, no gentleman will say, that the subsidies we now grant can render us certain of our allies being ready to answer our call: some of them, I am convinced, would not: Nay, some of them might perhaps do as they did in the last war, accept of the subsidies from, or join with the House of Bourbon. But supposing they should be all ready to answer our call, if they would agree to carry on the war by land at their own expence, or to require but a small share of the expence from us, I shall admit, that we should be very much obliged to them; but when we consider their behaviour in the three last wars, in which we generously engaged as principals against the House of Bourbon at their desire, can we expect, that when they engage at ours, they will not insist upon our being at the chief expence of carrying on the war by land, and the whole expence of carrying it on by sea? And if they should do this, their assistance would do us more hurt than good, because it would disable us from carrying on the war by sea and in America with any effect; and should we, by an extraordinary exertion of our naval strength, make any conquests in America, the issue of the war would probably be the same with that of the last, we should be obliged to restore our conquests in America, in order to recover what our allies had by their indolence or misconduct lost in Europe.

Whether we are now in danger of being involved in a war with the two chief branches of the House of Bourbon, is what I do not pretend to know, Sir, as I never had the honour of being let into the secrets of the cabinet. 'Tis true, we have been for these thirty years past endeavouring to unite those two branches in interest as much as they are in blood; and so far have we been from embracing any opportunity for disuniting them, that upon a certain famous occasion, which most gentlemen remember, and all have heard of, we put ourselves to a great expence for dissolving an union that had been accidentally made up, between the Spanish branch of that House and the House of Austria, and which by our concurrence might have been so cemented as to have held to this day. Therefore, if we are in any such danger, we owe it entirely to our own misconduct; and granting that we are, I will say, that if we should be involved in any such war, it were better to trust to our own natural strength at sea, than to engage with our allies in a land war upon the same terms we did, in any of the three last wars we have in conjunction with them been engaged in; because, as has been already observed by my hon. friend below me, the support of an army upon the continent of Europe will always cost this nation as much as double the number will cost the French nation, as a great part of the expence of their armies is either in, or soon returns to their own country; whereas almost every shilling expence we are at is gone for ever, and never returns, unless it be to purchase a share in our public funds, and thereby add to our outgoings in time of peace, as well as in time for war.

I think, I have now shewn, Sir, that this subsidy cannot in any supposable case be of advantage to this nation; and therefore I shall certainly give my vote against the question, whatever may become of the credit of our ministers in their future negociations; for as to our sovereign, he is no way concerned in the question, and to mention his name in our debates is a parliamentary transgression, which our ministers are but too often guilty of, though they must know, that nothing can be more

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derogatory to the dignity of their master, and to the liberties and privileges of that assembly, of which they have the honour to be members.

The Resolution was then put and carried by 236 to 54.

*Debate in the Lords against entering into Subsidiary Treaties with Foreign Powers.**] January 28. The order of the day being read, for taking into consideration the Treaty between the king of Great Britain and their high mightinesses the States-General on the one part, and the king of Poland elector of Saxony, on the other part; concluded at Dresden, the 13th September, 1751, N. S. The copy of the said Treaty was read. Upon which,

The Duke of *Bedford* rose and said:†

My lords; as I am to move you a question, which I think, and all your lordships must think of the utmost importance, I must beg your attention, and your leave to explain my reasons for the motion with which I am to conclude. Although his majesty has by his prerogative the sole power of making peace and war, and of concluding such treaties as he may at any time think necessary, yet no one doubts, but that by our constitution this House, which is the sovereign's supreme and highest council, may interpose and may advise his majesty to make such treaties as we may think necessary, or not to conclude any treaty, which may then be supposed to be upon the anvil. And even after a treaty is concluded, by which his majesty engages to pay a subsidy, or sum of money, either House of Parliament may refuse to grant money for enabling him to make good that engagement. This train of thinking I was led into by the treaty with the king of Poland as elector of Saxony, which your lordships have now

* From the London Magazine.

† Notes of Debate on the Subsidiary Treaty with the King of Poland Elector of Saxony, dated September 1751. From the Original, in the hand-writing of Lord Chancellor Hardwicke.

Duke of *Bedford*. 1. Subsidiary Treaties in time of full peace—burdensome—dangerous. —In time of war may be necessary—*Quid pro quo*.

2. You make yourselves perpetual purchasers of the friendship of that power.—If founded on the maxim of being a good German patriot.—If you buy some, others will not come to you without being bought.

3. Subsidiary Treaties in time of peace unpopular. The people will not bear that their money should be continually sent out of the kingdom for such purposes.

4. I except Subsidiary Treaties made just at the eve of a war; when a war seems inevitable. That is almost equal to the case of such a treaty in time of war. Some princes may be unable to keep up a body of troops for the common cause.

I will next consider this Treaty in particular.

1. Preamble. Indecent.

His majesty and the States General rendered humble suitors to the king of Poland elector of Saxony to accept a subsidy.

2. The first clause not objectionable.

3. The subsidy itself large—British proportion, 32,000*l*. per annum: given to the prince of the empire the most incapable to serve us—by his situation—by the administration of his finances.—If material, might be gained to us by our other allies, the two imperial courts. His ruling passion, the succession to the crown of Poland. Both the emperor and the Czarina highly interested in obtaining that election for his son.

The third article equally absurd with the preamble: That he whose interest it is to be your friend, will not take part against you.—The troops given are only to come to your assistance, in case both England and Holland are jointly attacked.—No probability of that.—If so, the case will be such, that these troops cannot be spared out of their own country.—The king of Poland is not obliged to keep up one man more than otherwise he would be.—The principle that you should always give subsidies, to keep up connections on the continent in prospect of a future war.

4. The fifth Article most material—meant to be applied to the case of the election of a king of the Romans—yet so worded that it binds the elector of Saxony to nothing. We have seen one elector fly off after a treaty made—the elector of Cologne.—If the election should be delayed, he may insist on new terms for his vote.—I wish it may be brought on this year, but I fear it will not.—In this country, where we are fond of seeking out princes to receive subsidies, it may take place with us.

I have no fear that Holland will give way to it.

5. There could never be a more improper time for making this treaty than the present time. I think we are not likely to succeed in the election.

Suppose the elector of Saxony bound; three electors stand out.---One of them not to be got. ---The other two may possibly be to be obtained---but how? you have shewn them the way; by subsidies only.

Before the death of the late king of Sweden,

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upon your table, and which I have not only perused but considered with all the attention I was master of. I have likewise, my lords, considered all the probable circumstances which, in my opinion, could render that treaty necessary, and all the possible consequences of it; and after the most mature consideration I cannot suggest to myself any one probable circumstance, which could render such a treaty necessary, nor any one possible consequence, which can be of advantage to this

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if France, who was uneasy about the Russian projects, had been been told that these troubles should be quieted, I say France would probably have come into the measure of the election.---You might probably have got Prussia by procuring for him the guaranty of Silesia.---Since the accession of the new king of Sweden, France does not want you now on that side.

Prussia has now set up a new pretension: 1. That the question shall be determined in conjunction with the college of princes: 2. That the election shall be made unanimously. The first of these makes a fine fund for subsidies. What steps do the two imperial courts take? The court of Vienna, which is most interested, is extremely backward.

I cannot believe that we have can been so weak as to make these voluntary propositions of this kind to the court of Vienna, without their desiring it.

*Obj.* Holland has agreed to it.

*Ans.* I am sorry for it---cannot afford it. If she should not pay her share, Saxony will expect it from us.

I see no probability of succeeding in the election of a king of the Romans in any way, at least not in an useful way.---If done with the consent of France, it will be worse than if not done at all.---If carried against Prussia, Palatine, and Cologne, it may instead of preventing a war, accelerate it.

Next, consider the impropriety of the time in respect of ourselves.---Vast load of debt.---I see things in the votes of the House of Commons which I do not call popular, but evidences of servility in the administration.---10,000 seamen voted this session.---8,000 proved sufficient last year.---Nova Scotia---Penny wise and pound foolish.---If two regiments sent from Ireland, it would have prevented all the mischief. These things are done to gratify one or two great individuals.---States the supplies---What part of the Sinking Fund is applied to pay the public debt.---Reducing the interest right, if for right purposes.---But you have taxed the public creditors thus, in order to lavish away in a shameful manner.---A shameful frugality in one thing---to make the receiving the rewards for the cattle dying of the mortality, and also of the rewards for taking robbers, as difficult and impracticable as possible.

Jamaica.---Fortifications of Fort Royal---At the same time that we are frugal to a vice, we are extravagant in those other matters to astonishment.---The miserable unhappy state of this country---We follow the worst economy in the world.---Motion "That an humble Address be presented, &c."

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Duke of *Newcastle.* This Treaty entered into, 1. For one great object to the benefit of this nation. 2. That it was necessary for this object. 3. That it is a measure of economy. If these three points can be made out it will fully justify this measure. The measure of subsidies is, like all other measures, to be determined by circumstances. Penny wise and pound foolish is the doctrine to support this measure. If a little money will probably tend to prevent a great evil, it is economy. If you do not in times of peace secure and attach to yourselves friends on the continent, you will be obliged to go into the next war, in the same disadvantageous manner as you did into the last war.

That this is a measure of economy.---The cause of the three last wars.---As to the last war---the chief cause that gave rise to it was the vacancy of the imperial throne. As to subsidies in time of peace.---From the treaty of Utrecht to the treaty of Aix-la-Chapelle, hardly four years have passed without greater foreign expences, either in subsidies, or something of the same nature. If the vacancy of the imperial throne the chief cause of the last war, human prudence could not invent a measure more likely to prevent it, than the object of this treaty.

As to the substance of the treaty.---Every body knows an express stipulation could not be inserted upon the face of the treaty.---But if this treaty has produced such assurances attending it, as have fully satisfied his majesty that he is secure of the *Vote*, it is all that possibly could be done.

These explanations are as satisfactory as any thing that can be imagined, even as to the two points which the noble Duke said the king of Prussia insisted on. If these two treaties had not been made, the House of Bavaria, and the House of Saxony might have revived their old claims.

Two great points secured---1. The only two probable candidates. 2. The two vicars---so the interest of the Vicariat cannot now be objected to this measure.

*Obj.* Why not brought on before now?

*Ans.* If any opportunity has been neglected 'tis justly blameable. But it was necessary to consider the constitution of the empire, and to settle it; and now it is clear that the unanimity of the electors is not necessary---nor the consent of the college of princes. No foreign power has a right to interfere in this by the treaty of Westphalia. All the treaty says, is, That the method of proceeding to the election of a king of the Romans should be considered.

Earl of *Sandwich.* The merits of the ques-

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nation, and which would not have been the same, if no such treaty had ever been made, nor any such expence ever incurred.

I know very well, my lords, what is pretended, which is the circumstance of the present emperor's death, and the consequence of getting his son, the archduke Joseph, chosen king of the Romans, either before or after his death; but, in my opinion, the circumstance is far from being probable, and the consequence of getting the son chosen king of the Romans, during his father's reign, at present almost impossible. Now, to determine with some precision between probable and improbable, we must call the doctrine of chances to our aid; when the chance is exactly equal, whether any accident shall happen or no, that accident may properly enough be said to be in an equilibrium; so that it can well be said to be probable or improbable: when the chance is but one of a great number of degrees against its happening, it then begins to be improbable; and, on the contrary, when the chance is in the same degree in favour of its happening, it then begins to be probable: and thus any accidental event may be, by what number of degrees you will, probable or improbable. To apply this to the accident of the emperor's death within the term of this treaty: let us consider, that his imperial majesty is but just entered into the 44th year of his age, and has as good a constitution as any man: then let us look into the exactest calculations that have been made of the vitality of mankind, and we shall from thence find, that he has an equal chance for living near 20 years; consequently, we must conclude, that the accident of his dying within the term of this treaty, is a circumstance which is highly improbable.

The next thing, my lords, I am to consider, is the possibility of what is said may be the consequence of this treaty, which is that of the archduke's being chosen king of the Romans in his father's life time. Your lordships all know, that it is one of the fundamental maxims of the empire, never to chuse a king of the Romans during the life of the reigning emperor, unless when the immediate safety of the empire requires it: this maxim, I shall grant, has been sometimes broken through, but never without great murmurings and heart-burnings, which, I am sure, it would not be prudent to give any occasion for at present. Is there at present the least pretence for saying, that the immediate safety of the empire requires an election of a king of the Romans? Does not the chance which, I have shewn, the present emperor has for living this 20 years evince, that no such necessity can at present exist? But this is not all, the dispute now started about who shall be the judges of this necessity, is a dispute that cannot be determined, and consequently must render an election of a king of the Romans impossible in the present circumstances of the empire.

Now, my lords, with regard to the advantage this nation is to reap from this treaty, it is impossible to suggest any without first supposing, either that the emperor is to die within the term of this treaty, or that it is possible to get the archduke Joseph chosen king of the Romans in his father's life-time; and even granting either the one or the other of these improbable suppositions, it will not be easy to shew any advantage we could reap, which we should not have reaped, though no such treaty had ever been made; for first, supposing the emperor to dié within the term of this treaty, can we imagine, that there would be any dispute about chusing his son, though under age? My lords, it is so much the interest of Germany to have the

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tion preponderate but very little on one side. I agree with the noble duke (of B.) in one half on the argument---that he has made the foundation of his opinion. The profusion of the ministers so great, that, unless a stop be put by the public to their extravagance, it will be impossible to support it.---A greater number of seamen voted than necessary---the experience of last year shews it.---To gratify particular persons, to comply with public clamour.---Consider this as a measure of precaution.---This Treaty is only a second part of that which has already met with your approbation ---the treaty of Bavaria.---Last year a fleet of ships sent to Nova Scotia, which could not possibly be of any use.

Earl of *Halifax*.

Duke of *Bedford*.

*Lord President*. Two great particularities in the case of France. 1. No single power can attack France---France can only be attacked by a great confederacy.---That can only be when she seems dangerous.

2. No power in Europe wishes any other family upon the throne of this kingdom but that which now reigns.---No single man in France wishes it.---They have no Pretender. ---The great reason here is that without a strength abroad we cannot maintain domestic tranquillity. For this reason you must keep friends abroad---in Germany particularly.

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imperial diadem continued in that House, as it strengthens their barrier both against the Turks and the French, that every prince in Germany would chuse to have the imperial diadem in that House rather than any other, except his own; and in particular, it is the interest of the king of Poland to have the imperial diadem continued in the House of Austria, because, considering the connection between that House and Russia, it will be the most effectual means for continuing the crown of Poland in his own family. Upon this supposition, therefore, we could expect no advantage from this treaty, but what we might have depended on, had this treaty never been made; and upon the other supposition the argument will be the same; for if it be the interest of the king of Poland to have the imperial dignity continued in the House of Austria, the sooner and the firmer it is settled there, the better for him, so long as the constitution of the empire is preserved, and the electoral privilege no way encroached on.

But, my lords, supposing, that there were a probability of the emperor's dying in a year or two, supposing, that there were a possibility of getting his son chosen king of the Romans in his life-time, and supposing, that in case this were not done, there would probably be upon the present emperor's death a contest about the election, and a new war thereby kindled up in Europe, are we at all times to grant subsidies, and to be at the chief expence of preserving the peace of Europe, as well as of carrying on every war that happens in Europe? This would be a most ridiculous undertaking, were we now in as happy and flourishing circumstances as this nation ever was. How much more ridiculous then must it be in our present unhappy and distressed circumstances? Our people are loaded already with such a number and variety of taxes, that it is hardly possible for the wit of man to invent a new one: Those taxes lie so heavy upon our navigation and manufactures, and have so much enhanced the price of all the necessaries and conveniencies of life, and consequently the wages of workmen, that foreigners are able to undersell us at every market, and to navigate their ships at a cheaper rate than our people can easily do. By this means both our trade and navigation are going to decay in every branch of business, except that between us and our own plantations, where foreigners cannot legally interfere with us, though I am afraid they have already begun to do so in a smuggling way, and this will increase in despite of us, for even our own people will go to the cheapest market, as soon as they have learnt where it is, let us do what we can to prevent it. And to all this let us add, that our public revenue is so deeply mortgaged, that what remains free is not, with the best economy, sufficient to defray the expence of our government in time of peace; for this very year we shall be obliged to lay violent hands upon that sacred fund, which was originally dedicated to the discharge of our public debt, notwithstanding our having loaded the landed interest with 3*s.* in the pound, which is a higher tax than most of them can well bear, and higher than they ever ought to be loaded with in time of peace.

It is with regret I give your lordships such a melancholy account of the circumstances of our country, for to tell any man that he is in the high road to ruin, can never be a very grateful message; but if he is not told of it in time, he will at last come to feel it; and upon seeing such an extravagant, such a wild project of expence undertaken, as this treaty now before us, I could not avoid setting our circumstances in their proper and true light. But this is far from being the only piece of extravagance we have subjected ourselves to. I could mention many others: we have for the ensuing year charged ourselves with at least 2,000 seamen more than we had any occasion for; and by our mismanagement we have rendered the affair of Nova Scotia a heavy and an annual article of expence. Economy itself is upon some occasions extravagance, and was never more so than in this affair of Nova Scotia; for when we resolved upon that settlement, we should have considered the obstacles we were probably to meet with, and should have sent such a force there at first, as would have been able to remove all obstacles at once: if we had at first sent two or three regiments thither along with the settlers, and had fixed those regiments in proper places, with a company of rangers well equipped to scour the country, I am persuaded, all the French inhabitants would have at once submitted, and none of the French Indians durst have ventured into the peninsula, to have molested our planters. If we had done this, the inhabitants might by this time have been able not only to have provided for, but to have defended themselves; but in the method we have managed, it is become, and, I fear, will

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long continue to be a heavy annual charge.

By such mismanagements and extravagancies as these, my lords, we have been reduced to the necessity of encroaching upon the sacred sinking fund, without considering how highly we have lately taxed the creditors of the public, by a reduction of their interest. They, it is true, consented to it, but they consented upon the supposition, that the sinking fund would be, at least in time of peace, religiously applied to the payment of the principal; because such an annual application would make them some amends, by raising the price of their capital. But they have already found themselves disappointed; and shall we in such circumstances engage to grant subsidies to German princes for the sake of getting that done, for which there is at present no absolute necessity, and which we have by our own neglect rendered impossible to be done? I say, my lords, our own neglect; for this of electing a king of the Romans should have been thought of at the time the treaty of Breslau, or that of Dresden was concluded, and we granted to the king of Prussia our guaranty of Silesia. If in lieu of that guaranty we had at that time insisted upon his promising to concur in electing the archduke Joseph king of the Romans, he would probably have agreed to it; and if he had, I believe, no other prince of the empire would have opposed it. Nay, even at the treaty of Aix-la-Chapelle, he would probably have agreed to concur in this election, in consideration of the guaranty of Silesia stipulated by that treaty; but upon all these occasions we threw away our guaranty of Silesia without any consideration; and he has now started a difficulty which, I am afraid, will render the election of a king of the Romans impracticable, during the life of the present emperor.

However, my lords, let it be practicable or impracticable, it is ridiculous in us, in our present circumstances, to become the purchasers of its practicability; and though either House of Parliament might refuse to grant any sum of money for this or any other such purpose, yet when our sovereign has concluded a treaty, and has engaged to pay such a subsidy, or such a sum of money, there are many gentlemen in the other House, and I am persuaded, many of your lordships, who would be under a very great difficulty, and would be extremely sorry to refuse to enable his majesty to make good an engagement, which he had charged himself with by a solemn treaty. Therefore, to prevent our being brought under any such dilemma for the future, I shall conclude with moving, "That an humble Address be presented to his majesty, most humbly to represent, That this House, having taken under their most serious consideration the Treaty between his majesty and their high mightinesses the States General of the United Provinces of the Low Countries on the one part, and his majesty the king of Poland, elector of Saxony, on the other part, concluded at Dresden, the 13th of Sept., N. S. 1751, and which was by his majesty's orders laid before this House, do conceive, that treaties of this kind, as being subsidiary, ought not to be entered into in time of peace, unless upon the greatest and most pressing emergencies; more especially at this time, when the nation is but just freed from a long and expensive war: that the said treaty doth not seem to this House to be founded upon an absolute necessity, without the obtaining of which the interests of this nation can be justly supposed to suffer; and that this treaty doth not appear to them a probable means of obtaining any real advantage to Great Britain."

Earl *Granville*:

My lords; I shall readily agree with the noble duke who made you this motion, that both Houses of Parliament, and more particularly this House, have a right to interpose with their advice against concluding any treaty which may then be supposed to be upon the anvil; and I hope his grace will join with me in opinion, that the most certain way of preserving this most important right, is to avoid making use of it in an unjust, immoderate, or suspicious manner; for as the people are highly interested in supporting the prerogatives of the crown, in order to prevent their being oppressed, and their country sacrificed by the artful and ambitious schemes of a faction in parliament, if an opinion should once generally prevail among the people, that we are making use of any of our privileges in a manner inconsistent with the true prerogatives of the crown, it would be easy for the king then upon the throne to put an end to all our privileges, and indeed to our very existence; and I must observe, that the present is not a proper time for pushing our privileges to any great extent, because the people do not seem inclined to patronise what has been



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usually called an opposition in parliament: the people are sensible of the danger they are in, and they now begin to judge, I think very rightly, that their relief cannot come from a contest, but from a cordial union between king and parliament, which, I am sure, can never arise from any such address as this now proposed.

In speeches without doors, my lords, I have often heard it said, that we ought never to grant subsidies in time of peace; but it was never yet said by any resolution of either House of Parliament; and such a resolution would, in my opinion, be not only of the most dangerous consequence in itself, but it would be one of the most direct encroachments that was ever made by parliament upon the prerogatives of the crown. Even the noble duke himself must allow, that it may sometimes be necessary to grant a subsidy in time of peace, because that which was lately granted to the duke of Bavaria was approved of, and most justly approved of by both Houses of Parliament; and if it was prudent and necessary in one case, no mortal man can with certainty foresee, that it may not be equally prudent and necessary in another. Would not, then, such a resolution be an encroachment upon the prerogatives of the crown? For after such a resolution, should the granting of a subsidy become never so necessary, the crown could not agree to any treaty for that purpose, without a previous application to parliament; and as encroachments upon the prerogatives of the crown, as well as those upon the privileges of the people, are of a most prolific nature, this resolution might beget another, that our sovereign should enter into no treaty with any foreign potentate without the advice of parliament, which, with regard to foreign affairs at least, would be a total subversion of our constitution, and would in a great measure prevent its being in our power to treat successfully with any foreign potentate whatsoever.

Our agreeing to such an Address as this now proposed, would therefore, my lords, at all times be of the most dangerous consequence, but more particularly so in the present situation of the affairs of Europe, when every one knows that a neighbouring nation, the increase of whose power and influence we have always reason to be jealous of, is distributing her subsidies and her pensions to every potentate in Europe that will accept of them. Can any one be ignorant of the reason which makes that nation so liberal of her subsidies and pensions? Let us but consider who they are that have hitherto been chiefly instrumental in setting bounds to her ambitious projects, and we may then easily judge against whom her resentment will always be chiefly directed. Shall we then sit quiet and unconcerned, when we see her gaining so many of the powers of Europe to her interest, in order that they may assist her, or at least that they may remain neutral, when she finds a proper opportunity for revenging herself upon those, who have so long been the chief obstacles to her glory? This opportunity she is impatiently waiting for, and this opportunity, every one must see, is the death of the present emperor, and a dispute in Germany about the choice of a successor. To prevent this therefore, is what we should most cautiously endeavour, and for this purpose we must be at the expence of some subsidies. Upon this head we have naturally a great advantage, because, as we aim at nothing bnt preserving the peace, and contributing to that which is the true interest of Germany, every unbiassed prince of the empire will readily concur with us: whereas it is evident, that our rival is aiming at raising the flames of a civil war in Germany, that, like a cruel thief, she may pilfer something during the conflagration; yet, nevertheless we find that some of the princes of the empire are so blinded by their avarice or ambition, as to join with her in this wicked project, and to accept of subsidies from her upon that account: as we find this to be the case, we must endeavour, even at the expence of some subsidies, to gain as many as possible to our side of the question; and whether it may not be necessary to grant some more subsidies than we have hitherto done, no man can pretend to foretel.

Whether it be possible to get the archduke Joseph chosen king of the Romans during the life of his father, is a question, my lords, which I think of no manner of moment; for supposing it were not, yet still it would be necessary for us to secure as many as possible of the electors of the empire to concur in chusing him emperor upon his father's death, because a balance of power in Europe can no other way be preserved; and to those who appear resolved to concur in this salutary measure, we ought to grant subsidies even in time of peace, in order to enable them to have a larger number of regular, well disci-



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plined troops in readiness against that event, lest some of the German princes under a foreign influence should attempt to prevent, by force of arms, an election, which they found they could not prevent by the laws and constitutions of their country. Upon this principle the late treaty with the king of Poland, as elector of Saxony, must be justified, and it were to be wished we could likewise gain the elector palatine and the elector of Cologne; for as to the king of Prussia, whilst he continues in his present maxims of government, I am afraid, it will be impossible to gain him, unless we should alter our measures, and depart from that which I think the true interest of Europe, and of Great Britain, and even of the Protestant religion. From the turn which the affairs of Europe have lately taken, we must disagree with the House of Austria, or be upon no very good terms with the House of Brandenburgh; and if we should disagree with the House of Austria, that House would join the House of Bourbon, whose arms would be open to receive her, in order to put an end to the Protestant religion, as well as to the commerce and naval power of this kingdom.

Thus, my lords, we may see, that upon many accounts of the utmost importance, we ought to cultivate a friendship and alliance with the House of Austria; and to render that alliance the more useful, we ought to contribute towards rendering that House more powerful. At least, we ought to join in every measure, that may be necessary for preserving the power it is now possessed of; and for this purpose it will surely be allowed to be necessary to have the imperial diadem continued in that House. I shall most readily grant, that this is the interest of every prince in Germany as well as of this kingdom; and I shall likewise grant, that every such prince, who is not more swayed by some selfish and private interest than by a generous love for the public interest of his country, would concur in this measure without any subsidy from us; but princes are liable to every human passion as well as other men; and when there are strong temptations of a private nature on one side, and nothing but love of country on the other, it is a dangerous circumstance with regard to the conduct of princes as well as private men: it is therefore prudent in us to throw a small subsidy into the scale of the latter; and even when we do so, it must be allowed, that those who accept of it are strongly influenced by a love for their country, because it is known that they might have a much larger subsidy, besides other temptations, should they embark on the other side of the question.

But the danger of this, says the noble duke, might have been prevented, without our granting any subsidy, had we taken care to engage the vote of the king of Prussia, in consideration of our guaranteeing to him the duchy of Silesia by the treaty of Breslaw, and afterwards by the treaties of Dresden and Aix-la-Chapelle; because, if the king of Prussia had engaged to concur in electing the archduke Joseph king of the Romans, no other prince of the empire would have opposed it. My lords, can any one imagine that the king of Prussia put such a value upon that guarantee, or that he ever looked upon it as a security for his possession of that duchy? From the whole tenor of his conduct we may see that he despises guarantees; and therefore he would have laughed at us, had we proposed to annex any condition to our guarantee, that he was not otherwise ready to agree to. If you should ask him what title he had to Silesia, do you think that he would shew a piece of parchment, or mention any of these treaties? No, my lords: as the earl of Warren in our Edward the 1st's reign shewed his sword, he would shew you his army. If he now refuses to concur in electing the archduke Joseph king of the Romans, can any one think that he would have agreed to it when he was at the head of a victorious and triumphant army, and when the utmost that could be expected from him was, that he would put a stop to his victories, and agree to restore some part of his conquests?

Therefore, my lords, it cannot with any shadow of reason be said, that we ever had it in our power to secure the election of the archduke Joseph, without granting any subsidy, nor can we ever so much as contribute towards that happy event, but by granting subsidies to such of the electors as are willing to concur in bringing it about; and when subsidies are granted, and every other engine set to work, for preventing it, would it not be the height of madness in us, not to contribute towards it as far as lies in our power? It is true, the present emperor's life is a good one, a life that may be as much depended on as that of any man whatsoever: with pleasure, I join in opinion with the noble

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duke, that his imperial majesty has at least an equal chance for living these 20 years; but an equal chance is far from being a certainty, and the bare possibility of the emperor's dying in a short time, is an unanswerable argument against our agreeing to the Address proposed. To set this argument in a clear light, let me suppose that this Address is agreed to, and that the emperor should die soon after the close of this session: I trust in God neither of these events will happen; but as both are possible, both may be supposed; and with great probability. I may next suppose, that the French should set up a candidate for the imperial diadem, in opposition to the archduke Joseph, and that they should have three of the electors ready to vote for their candidate: in these circumstances let me, lastly, suppose, that two other electors should declare to our court, that they would vote for the French candidate, unless his majesty should engage to grant them a small subsidy for a certain number of years; would it not in such a case be extremely unfortunate to have his majesty's hands so tied up by the Address of this House, that he could not engage to grant any such subsidy?

As all these suppositions are possible, and some of them highly probable, I hope, they will convince your lordships of the danger that might result from our agreeing to the Address proposed; and as his majesty has never yet loaded his people with any unnecessary expence, there cannot be the least reason for our running ourselves into any such danger, even supposing that the Address could no way be deemed an encroachment upon the prerogatives of the crown: but as it certainly would be an encroachment upon one of the most necessary and useful prerogatives of the crown, it might expose us to innumerable other dangers, which cannot at present be foreseen. Let us therefore continue to adhere to our ancient constitution; for whilst we do so, our sovereign will always have great weight at every court in Europe, and from that weight the nation will upon every occasion reap advantage: though we are not, like some of our neighbours, at the expence of keeping up numerous armies in time of peace, yet all know what we are able to do in time of war; and this, whilst our constitution is preserved, will make us respected by our friends, and dreaded by our enemies. I remember I was once asked by the minister of a great prince, what we meant by the preamble to our Mutiny Bill? Do you think, said he, that the balance of power in Europe can be preserved by 10,000 seamen and 15,000 land-forces? No, Sir, says I, but his majesty, by a vote in parliament, can make that 10,000 seamen, 40, 50, or 60,000; and that 15,000 land forces, 150, or with your help 250,000. This was not a Dutch commentary: it did not obscure the text which it was meant to explain: he presently understood it, and he acknowledged what I said to be true.

This, my lords, will always be the case whilst there is a good correspondence between the king and his people; but should that correspondence be any way interrupted, the nation itself, as well as the sovereign, would fall into contempt; and as this would, in my opinion, be the certain consequence of our agreeing to this Address, it is the most weighty objection against it: for the latter part of it tends directly towards sowing sedition among the people, because it would propagate an opinion, that his majesty had already run them into some unnecessary expence, and that the taxes they are loaded with, which I shall allow to be burdensome, were occasioned by a course of extravagant and unnecessary measures, the falsehood of which is so evident, that I am persuaded, it is far from being the opinion of the noble duke who made you this motion; and if we can by a few subsidies, procure the archduke Joseph to be chosen king of the Romans in the life-time of his father, or if we can thereby prevent a disputed election upon the death of the present emperor, the expence will be so far from being unnecessary or extravagant, that it will save us many millions, and at the same time prevent our commerce, our navigation, our religion, our very being as a free and independent nation, from being again brought to depend upon the uncertain fate of a war. In this light, my lords, I must view the subsidies we have already granted, or may hereafter find it necessary to grant; and whoever views them in this light, must of course give his negative to the question.

The Duke of *Bedford:*

My lords; as no man understands the language of parliament, or knows better than the noble lord, how to distinguish between the import of one word and that of another, I was surprised to hear his lordship make use of the word,

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resolution, when the question is only about an address. I shall agree with the noble lord, that if the motion had been, to resolve not to enter into any more subsidiary treaties with foreign princes in time of peace, it would have been an encroachment upon the prerogatives of the crown; because by our constitution the king alone has a right to come to such a resolution, and this resolution, I hope his majesty will come to, whatever may become of this question. But the noble lord will not surely say, that we have not a right to offer our advice to our sovereign upon any important emergency, and to lay that advice before him in the shape of an humble and dutiful address; and this is all that is desired by the motion now under your lordships' consideration.

But this is not the only error, with regard to the language of parliament, which his lordship, accidentally I must believe, fell into. Your lordships all know, that the name of our sovereign is never to be brought into our debates; especially when any measure of government is brought under our consideration, in order to determine whether it was a right or a wrong measure: in all such cases it is supposed to be the measure of our ministers, and they alone are to answer for it. Thus if any unnecessary expence has been brought upon the nation, we are not to suppose that this was done by his majesty, but by his majesty's ministers; and by them I will say, that the nation has been often involved in an expence, or in a greater expence, than was any way necessary. If I had not thought so, I should not have troubled your lordships with this motion; but I have said, and I still think, that the subsidy now granted to the king of Poland, as elector of Saxony, was not only an unnecessary expence, but an expence that could answer no purpose, at least no British purpose whatsoever. There is a very great difference between this subsidy and that which was last year granted to the elector of Bavaria; for the family of Bavaria have been long attached to France, and by that attachment in the last war, their territories had been so ruined and depopulated, that it was not in their power to support themselves without a subsidy from some foreign power or other; therefore they were under a necessity of accepting of a subsidy from France, if they could have none from any other power in Europe; and they were under no manner of attachment to the House of Austria, either from gratitude or interest, that could induce them to refuse a subsidy from France, upon whatever terms it might be offered. But the family of Saxony were never much attached to France, nor were they in any very distressed circumstances; and they were attached from gratitude as well as interest to the House of Austria, and must continue so as long as they are in possession of the crown of Poland. Thus there were many reasons for our granting a subsidy to the elector of Bavaria, no one of which could be pleaded in favour of the elector of Saxony; and the truth is, that we cannot propose to get any thing by the subsidy we have granted to the elector of Saxony, but what we might have depended on, had no such subsidy been ever granted.

To set this in a clear light, my lords, I shall consider the several motives that have been pretended for granting this subsidy; and first, it is said to be granted, in order to induce the elector of Saxony to concur in an immediate choice of the archduke Joseph as king of the Romans. If this were practicable by the laws of the empire, can we suppose that the elector of Saxony would not readily concur in it, without any subsidy from us; as the placing of the crown of Poland upon the head of his son, in case of his death, depends so much upon the friendship and the power of the House of Austria? But the practicability of electing the archduke Joseph king of the Romans, in the present circumstances of the empire, seems to be given up by the noble lord who spoke last; and as it will be admitted, I believe, that he understands the affairs of Germany as well as any man in this kingdom, I have no occasion to insist long upon this topic.

Being thus drove from this pretence, my lords, it is next said, that we have granted this subsidy, in order to secure the vote of Saxony for the archduke Joseph, in case of the death of the present emperor his father. To this I shall make the same answer as to the former; and I shall further add, that as the present emperor has an equal chance for living these twenty years, and may live a great while longer, this subsidy treaty will probably be forgot before that event happens; therefore, if there had been any suspicion of the elector of Saxony refusing to concur in the election of the archduke Joseph upon the death of his father, we should have suspended the granting of any subsidy

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until that death actually happened; for it would then have had its due weight, and we might have stipulated, that it should not commence until after the election, which would have been no more than such a caution as every prudent man would make use of in his own affairs.

This motive, therefore, appears to be as weak as the former; and for this reason the noble lord who spoke last, found it necessary to assign a third, which is that of granting subsidies to all those, or at least some of those electors, who seem inclined to chuse the archduke Joseph emperor upon the death of his father, in order to enable them to have always a numerous body of regular, well disciplined forces in readiness, lest some of the princes of the empire, under French influence, should attempt to prevent or defeat that election by force of arms. Now your lordships must see, that this argument either proves nothing, or it proves a great deal too much; for upon the same principle we must not only grant subsidies to many of the princes, as well as most of the electors of the empire, but we must continue those subsidies during the present emperor's life, nay, for ever, because the same danger may be apprehended at every future election; which, I think, is alone sufficient for shewing the absurdity of this principle. But this absurdity will appear still more evident, if we consider the facility of raising armies of good troops, though not quite so regular, in the Austrian dominions, and the probability of the present emperor's living a great many years; for supposing that the subsidies granted for this purpose amounted but to 100,000*l.* a year, and that the present emperor should live but 20 years, I appeal to your lordships, whether the issuing of two millions to the House of Austria and the princes of the empire in that interest, upon the death of the present emperor, would not be much more effectual towards preventing any forcible opposition to the election of an emperor, than any additional number of troops that could be kept up in the empire, by our granting subsidies to the amount of 100,000*l.* a year for 20 years to come; and yet that yearly sum for such a number of years, would, with interest, amount to a great deal more than two millions.

But, my lords, unfortunately for this argument, there is no foundation for it in either of the subsidy treaties we have made; for we do not stipulate that either of those princes shall keep up a greater number of troops than they usually do; and particularly with regard to the king of Poland, if his majesty takes care to have always ready at our call, the number of troops stipulated by this treaty, which is not half the number he usually keeps on foot, he may, if he pleases, apply our subsidy, and the whole residue of his revenue, towards making an addition to his cabinet of curiosities, instead of an addition to his army, there not being one word in the treaty for obliging him to keep up a greater number than that which he has promised to have always ready at our call.

Then, my lords, with regard to the subsidies granted by France, and the danger of leaving our friends in Germany liable to the temptation of accepting the subsidies offered by that crown, there is in this respect a very great difference between France and us, as the noble lord himself was pleased to mention. We have no selfish and secret views: we desire nothing of the princes of the empire, or of any prince of Europe, but to take care of their own independency, and of the true interest of their country: the whole of our aim is to preserve a balance of power in Europe: at least, I hope, that no man in England has any other aim. But whatever the French may pretend, it is certain, and I believe every prince in Europe suspects, that they have a selfish and secret view. This makes a material difference with regard to the necessity of granting subsidies. France must grant subsidies and large ones too; and those subsidies many of the princes of Europe will, in time of peace, accept of; but without granting any subsidy on our part, we may render those subsidies ineffectual, with regard to what France secretly expects from them; for if we never entertain any selfish or partial view of our own, if we take no false alarm as to the balance of power being in danger, nor desire any prince in Europe to join with us but when it is in immediate and apparent danger, we shall never have occasion to contend with France in granting subsidies, because those very princes, who had taken her subsidies in time of peace, would join with us in a war against her, as soon as her secret designs began to be laid open.

To apply this, my lords, to the affairs of Germany; it is true, I am of opinion, and I believe your lordships are all of opinion, that it is for the interest of Ger-

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many to have the imperial diadem continued in the House of Austria; but then this must be done by a fair and free election as often as necessity requires; for no man can think that it would be for the interest of Germany to have the imperial diadem continued in that House by force of arms, or even by bribery and corruption, if such a thing were possible. The very attempt would make most of the princes as well as electors resolve to join with France against the House of Austria; and I wish our late treaties with Bavaria and Saxony, and the arguments made use of in support of those treaties, may not have given the French ministers too good a handle, at many of the courts of Germany; for in my opinion, nothing but a suspicion that illegal means are to be made use of by the House of Austria and her friends, could enable France to set up a candidate against the archduke Joseph upon the demise of his father, though it may now be easy for France to prevent his being chosen king of the Romans during the life of his father, because it is certain, that such a choice, without an absolute necessity, is against the fundamental laws of the empire. I shall not indeed say, but that some of the other princes of the empire would be proud of the honour of being chosen emperor; but I do not believe there is more than one, who would not rather have the imperial diadem lodged in the House of Austria, than in any other house except his own; therefore I must look upon all the dangers we have been frighted with upon the death of the present emperor, to be altogether chimerical, and consequently such as ought not to induce us to be at the expence of any foreign subsidies, by way of counterbalance to those granted by France.

I think, my lords, I have now examined all the motives pretended for this new subsidy treaty with Saxony, and I hope I have shewn the imbecility of every one of them. I shall therefore next examine that frightful consequence, which the noble lord extracted out of so many possible suppositions, and which, I am persuaded, he would not have been at the pains to have done, had he considered the words of my motion, which mention expressly this time of public tranquillity: now supposing this Address agreed to, and supposing that the emperor should die soon after the close of this session, with all the other suppositions which the noble lord was pleased to suppose, it is not evident that the force of this Address would then be at an end; for though war might not then be declared, yet surely it could not be called a time of public tranquillity, and consequently the advice given by this Address, could not be supposed to relate to that time; therefore his majesty, without any previous application to parliament, might engage to grant the subsidies demanded, and the next session would certainly enable him to make that engagement good.

And with respect to the last objection made by the noble lord to the Address I have proposed, which was, that it would tend to raise sedition among the people, by making them imagine, that some very unnecessary expence had already been incurred, there is not a word in the Address that can give the least foundation for such an opinion; and if there were, it could give the people no new opinion; for whatever our ministers may think, I am persuaded, there are ninety-nine out of a hundred of the people without doors, who think as I do, that this subsidy to Saxony can answer no British purpose whatsoever, and consequently is an expence that was absolutely unnecessary. But whatever may be the consequence with regard to the people, it will not surely be alleged, that we are not to give our sovereign a proper and a necessary advice, for fear of raising sedition among the people, or that we are to neglect doing our duty, because the people do not seem inclined to patronise any opposition in parliament. My lords, if this want of inclination in the people proceeded from a general approbation of all the measures that have been lately pursued by the administration, I should rejoice in it; but I am afraid that the disappointment they met with from a late famous opposition, has made them too generally form an opinion, that they can expect no relief from parliament; and such an opinion, if long continued among the people, would be of the most dangerous consequence to our constitution, because it would bring parliaments into contempt: nay, it might be of dangerous consequence to our present happy establishment; because the people might at last begin to think of seeking relief somewhere else. Therefore, that supinity with regard to public affairs, which at present prevails but too much among the people, should make every man, who has the honour of a seat in parliament, the more zealous in opposing and censuring every public measure, which he thinks wrong; and conse-

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quently, if there were any censure implied in the Address which I have proposed, this popular indifference is rather an argument for than against our agreeing to the Address, and must be thought so by every lord, who has the same opinion that I have, of the subsidy, which by this new treaty has been granted to Saxony.

The Motion was then put and negatived.

*Debate in the Commons against entering into Subsidiary Treaties with Foreign Powers.*] January 29. A motion was made by lord Harley, "That an humble Address be presented to his majesty, beseeching him, in the most dutiful manner, that during this time of public tranquillity, his majesty will be graciously pleased not to enter into any subsidiary treaties with foreign princes, which are so burthensome to this nation." This motion being seconded by Mr. Northey, produced a warm debate, in which the other speakers in favour of it were, lord Strange, Mr. Prowse, Mr. Moreton, Mr. Beckford, Mr. Fazakerly, sir Robert Newdigate, Mr. Coke, and Mr. Delaval. It was opposed by Mr. Nugent, Mr. Pelham, Mr. H. Walpole, Sir Henry Erskine, Mr. Solicitor General, Mr. Tracy, Mr. Mitchel, col. Hampden, Mr. Ellis, and Mr. Southwell.

In favour of the motion it was said, That subsidiary treaties ought never to be entered into but upon the greatest emergencies, that now, when all the powers of Europe were in profound peace, such treaties could not be founded on absolute necessity; that, on the contrary, they ought to be looked upon as a dead weight on Great Britain, already too heavily loaded by her own enormous debts and taxes; that it is a fact well known to every member present, that the powers receiving subsidies in times of peace were not always to be depended upon in time of war; that it was a maxim in every state to consult its own interest according to the circumstances of the times; and accordingly, upon the breaking out of the late war, the Danes entered into a subsidiary treaty with France, whereby they gained the advantage of being paid for maintaining 12,000 troops for their own defence at home, although, for more than twelve years before, Great Britain had paid them for the same number, to be in readiness to march in support of the common cause, whenever they should be wanted; that it was the true interest of the Germanic states to unite their forces, in order to preserve the balance of power upon the continent, without which they cannot long subsist; but that Great Britain was so far from being under the same necessity, that it had ever been esteemed her truest policy to remain neuter till she could clearly discover the preponderating side, and then, and not till then, to throw her whole weight into the opposite scale.

To these reasons it was replied, That right policy required every nation to provide against the worst; that though the powers of Europe were all in profound peace, yet some of those powers were no less active in endeavouring to strengthen their interest upon the continent, than if a war actually subsisted; that it was the true interest of Great Britain, as a maritime power, to maintain her weight upon the continent, without which, much of the wealth drawn from thence would fall to the share of her rivals in trade: that the particular case of the Danes was no objection to subsidiary treaties in general, for when his Danish majesty entered into treaty with France, his term with Great Britain was expired, and he had a right to make the best bargain he could for his subjects; that though the balance of power upon the continent must be granted to be as much the object of the petty states of Germany as of any others, yet it must also be allowed, that even the most considerable of them, by their situation and circumstances, are unable to maintain their dignity without being beholden to their neighbours, and therefore necessity obliges them to take part with those who are best able or most willing to contribute to their support; that the interests of the maritime powers are inseparably united: and that if they were to look tamely on, and see France attach to her interest state after state, by subsidiary treaties, without exerting themselves in time to traverse her measures, they would have cause to repent of their parsimony, when perhaps it were too late to retrieve the error, and they might fall a prey to the common enemy before they were sufficiently apprized of their danger; a circumstance against which this nation is principally concerned to guard.

The question being put, it passed in the negative, by 182 to 52.

*Debate in the Commons on the Bill to make the Militia of England more useful.*]

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January 27. In consequence of a former notice,

Mr. *William Thornton* rose and said:*

Sir; from a thorough conviction of the necessity of the measure which I am about to propose, and according to my declaration in a late debate, I rise up, in the integrity of my heart, to move this hon. House that something may be done to render the Militia more useful.

It is, indeed, with great diffidence that I take upon me so important a concern in the presence of so many gentlemen of superior abilities: but, however weak my attempt, I hope that my intention will appear to be such as becomes a faithful subject, and a lover of his country. I hope, Sir, that the being first in arms, and first in the field to oppose the late rebellion, at the head of a sort of militia (for such they were) will excuse my being first in a proposal for rendering the militia more able to defend their country, if the like emergency should again happen: and that the sincerity of my zeal will atone for the plainness of my address, and the irregularity of my arguments.

I have endeavoured, Sir, as I thought it my duty, to make myself master of the excellent laws of our ancestors for regulating the militia of this country, and have searched into the causes which have rendered this militia weak and contemptible. As these causes will be easily comprehended, and the faults in our laws, which produced them, may be easily pointed out, the remedy will not be either difficult or tedious. I must not, however, omit to take notice, that the militia laws have been spoiled by design, some villainous clauses having been artfully intruded into them, which were previously known to be such as would render them entirely useless. As this cannot be denied, I persuade myself, that, after a very little reflection, every gentleman present will concur in my opinion, that some alteration is necessary with respect to our militia, either to commence now, or at least at an eve of a commotion, when their assistance shall be wanted to surmount the danger which we would not prevent. If our militia is not to be frequently exercised, let there be some law, by which it may be more effectually raised: let us no longer acknowledge the importance of a militia in the preambles of many of our statutes, yet render this very militia ineffectual, by suffering such destructive clauses to remain, as will reduce the statute itself to a mere form of words and a dead letter, to the astonishment of other nations, and the disgrace of our own. Let us, Sir, repeal all the present laws concerning the militia, we shall then evidently perceive our nakedness, and in what a defenceless state they will leave us; let us no longer be amused with the appearance of a security which they cannot give; nothing more surely than the discovery of our danger is necessary to put us immediately upon our guard; nothing more surely is necessary to determine us to enact laws which shall be in effect what the present laws are only in form; and, I hope, we shall, upon this occasion, remember the great maxim of Cosmo de Medicis, from whom Machiavel derived all his political knowledge: "defer not till to-morrow what can and ought to be done to-day."

A regulation, Sir, by which our country is to be defended against superstition and slavery, against the fury of an invasion, or the rapine of rebellion, requires the most mature and dispassionate deliberation; shall we, therefore, defer this regulation till we hear the drum of an enemy beat to arms? Shall we defer it till every heart throbs with apprehension, and every mind is confused with anxiety and terror? Till impatience for obtaining the end shall cause us to mistake the means? Till a time when an hypocritical zeal for the safety of the public, taking advantage of the confusion, shall bring us into greater danger? Were not the very clauses that have emasculated our statutes relating to the militia, introduced in the time of public and imminent danger, by designing men who, under a pretence of increasing our security, took away what we had?

Let us then in this interval of tranquillity, when the mind is at leisure to examine and choose, set about changing these ruinous clauses for such as will be quite proper. Let us now establish our safety upon a firm foundation, by passing such a law as will furnish this country with a militia equally effective, more easily raised, and maintained at a less expence than that of any other nation in the world; let us no longer trust our liberty and our lives,

* In 1753, Mr. Thornton published a pamphlet, entitled, "The Counterpoise, being Thoughts on a Militia and a Standing Army:" from the Appendix to which, this and the following Speech are taken.



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our religion, our country, and our posterity, to a mercenary army that has no motive to defend us but its pay, and no concern for our liberties, because they have given up their own.

If it should happen, Sir, that a large military force should be suddenly wanted, at a time when the parliament is not sitting, and his majesty is abroad, how is it to be supplied? Will not the waiting for an act of parliament produce the most dangerous delay? And will not the same inconveniences follow that happened in the year 1745? Inconveniences which we now feel, and which will probably be long felt by our posterity. A well-constituted militia, Sir, at that time, would have saved the nation 3,000,000*l.*; and if it be admitted that such a militia would be attended with an annual expence to the whole nation of 10,000*l.* and that there should be occasion to use it but once in thirty years, which is the space between the two last rebellions, we should then have that service for 300,000*l.* which has cost us 3,000,000*l.*; and consequently save (which would be good economy instead of superfluous expence) 2,700,000*l.* upon the balance. Besides, those whom the want of this force might encourage to interrupt our tranquillity, may be deterred from their attempt by observing that a new regulation hath rendered us sufficiently formidable: to prevent is certainly still better than to cure. These considerations, Sir, appear so formidable to me, that I cannot think any gentleman will continue to oppose, or even on any account to delay the measure which they have induced me to undertake and recommend.

But, Sir, lest any gentleman should doubt whether this measure be practicable, I shall observe that the establishment of a militia in any country, where the people are numerous and industrious, is not only practicable, but easy. Switzerland and Germany, which are poor countries, thinly inhabited, have their militia, notwithstanding the people must be necessarily dissipated by the great extent of the lands which they cultivate. And is a militia impossible in England? A country that is remarkable for its fertility, and crowded with men, where a few acres afford a plentiful subsistance, and almost every parish could furnish a regiment.

If it be objected, that this militia cannot be exercised without taking the husbandman or the manufacturer from his labour, a circumstance which cannot but be hurtful to a trading nation; I answer, our militia may be exercised on holidays, according to the practice in Switzerland; but supposing that two days in a month were to be set apart for this purpose, it is evident that less labour would be lost by 200,000 militia, who would immediately return to their work from their exercise, than by 20,000 regular troops, who consider themselves as gentlemen soldiers, and every species of industry as incompatible with their station, and indeed with their duty.

I would not, however, be thought an advocate for the total reduction of the army. I know that an army is necessary, that there must be guards, and some troops at our garrisons; in Gibraltar and Port Mahon, and a sufficient number of regular forces in Ireland, the islands of Scotland, and the West Indies. But, I think such a reduction of the army is expedient as would cause a saving, equivalent to the expence of 260,000 militia, and that enough would still remain for the above services.

This number, Sir, of 260,000 for the militia was our ancient contingent, and, as they are dispersed through the several counties of this island, will effectually repress, if not prevent, any invasion from abroad, and quell every disturbance that may be fomented at home. They will be always ready in every part of the kingdom to assist the civil power, as well as to protect our coasts from insult; coasts of such extent, that if the present standing army was doubled, it would not be able to secure the island from being plundered in some part or other, by the daring crew of a buccaneer, or a desperate association of smugglers. And as it is our coast that principally makes a military force of any kind necessary, what must be our situation, when without any force by which this coast can be secured, and with scarce a fortified place in the kingdom, we are not able to bring together 6,000 men for the defence of the capital upon a sudden and unexpected attack? The marshals Belleisle and Saxe both remarked that we must be easily over-run; and it is a common saying among the French, that England would be only a breakfast; and I should be sorry if they should put us to prove the contrary before we have a militia established. Need we have a better hint, or a stronger motive, to provide for our safety? *Ex hoste doceri.*

As to the difficulty of reforming our mi-



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litia, if it be said that experiment is against me, and that experiment is stronger than argument: if it be alleged that former attempts to establish a militia have been ineffectual, it needs only to be considered, by what means these attempts have been made. They were made in consequence of those very statutes which, being perverted from their primary intentions, are evidently *Felo de se*; so that the militia, which was designed to be a regular and well-disciplined body, is degenerated into a mere mob: but even this mob has been known to do good service.

I will not trespass, Sir, upon the indulgence of the House by proving self-evident propositions: It is sufficient only to state them. It is of absolute necessity we should have a military force sufficient to defend eleven millions of people, and it is acknowledged on all hands that our present force is not sufficient. There are but three ways by which this deficiency can be supplied; first, by a regular army of mercenaries; secondly by foreign auxiliaries; thirdly, by a militia. A regular army of mercenaries we can neither afford to pay for living in idleness, nor spare from the trades in which they would otherwise be employed. The hiring of auxiliaries is attended with equal expence, and is yet less to be depended upon: for they who may be engaged to supply auxiliaries to us may, when we want them, be scarce able to defend themselves, as was the case in the unhappy year 1745. Auxiliaries may also be bought off by our enemy at the very minute we want them, or sent under restrictions which will render them wholly unserviceable. There needs not, indeed, any argument to prove a measure to be impolitic, which has already incumbered us with debts that it is scarce possible we should pay, and has reduced our neighbours the Dutch into yet more deplorable poverty and distress.

A militia which would defend us by men of property, whose interest is involved in that of their country, and who would only circulate their pay, and not carry it abroad, must be our only resource. Such a militia, Sir, has been rejected by those who have had the management of this unhappy country, who have, for reasons best known to themselves, squandered the public treasure in vain attempts to obtain from foreign and domestic mercenaries what a militia only can supply. Let us then interpose in the behalf of an injured nation; let us once more connect the civil and the military power, and direct their united efforts to the same end. This, as it will give us strength at home, will give us reputation abroad. This is advised by Machiavel, as the surest means of national greatness; this was successfully practised by the Spartans and Romans of old, the Goths and ancient Germans, and this is now the strength and the glory of the Swiss, a nation which however inconsiderable in its extent, no ambitious power has dared to molest. I therefore humbly move that leave may be given to bring in a bill, "to make the Militia of that part of Great Britain called England more useful."

This motion was seconded by sir Walter Blackett, and agreed to by the House *nem. con.* and a Bill ordered to be prepared and brought in by Mr. Thornton, sir Walter Blackett, lieut. general Oglethorpe, Mr. Fazakerley, sir James Lowther, and Mr. Northey.

February 6. Mr. *Thornton* presented the Bill, with the following speech:

Sir; it is with great pleasure that I rise up to congratulate my friends and countrymen, upon the apparent probability of success in the attempt for making the militia more useful. The zeal of the House, which appeared in an unanimous order to prepare and bring in a Bill for this purpose, has encouraged the most sanguine hopes that it will not be regarded merely as a subject of dispute, but be considered with a serious and dispassionate attention; and that after it shall have received every improvement which may be expected from the united efforts of judgment, experience and integrity, in this assembly, it will pass into a law. And in this hope I am not alone, for I have with pleasure heard it urged by many gentlemen who afforded me their kind assistance in the beginning, as a motive to my assiduity and perseverance.

The gentlemen who have by your orders prepared the Bill, which is now delivered in at your table, considered their subject with the most mature deliberation; and compared every plan for a militia, which was suggested by their own minds, with all that they could procure from the writings of others, and from the practice of ancient and modern nations. They soon perceived that the declension of our own militia was not the effect of any error in the general structure of our old laws, upon which it was founded; but of particular clauses, which were so loosely and inaccu-

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rately expressed, as that the law might be neglected or violated with impunity. To those laws therefore they have adhered as a general plan; and the rather, because new projects, however specious in theory, are frequently found to be very difficult in practice. And, indeed, to introduce new constituent parts into an old system of government, frequently weakens the whole. The materials are such as never hold firmly together, the breach that was made to admit the new structure is always visible, and the fabric loses not only its uniformity, but its strength.

By these considerations the gentlemen were deterred from the experiment, and judged it best; 'Stare super vias antiquas,' and nothing more seems to require alteration in the old laws, than the clauses which rendered them ineffectual, and the method of defraying the expence which must necessarily attend the militia's being drawn out. Nor has any thing been added, except some regulations for the meeting of the lieutenants, and their deputies; the exercising the men on holidays; and the establishing a few honorary rewards. These regulations have been found of great advantage to the Swiss, and it is hoped will render our militia superior to theirs. Such is the structure of the Bill, and if it should pass into a law, it will almost execute itself; the military exercise will be considered as an entertainment and diversion; the parade and dexterity will gratify the spectators, and the troops will be pleased to perceive themselves the objects of public attention and curiosity; for this reason, no coercion is necessary to cause the militia to exercise in Switzerland, and for this reason no coercion will be necessary here.

But, with whatever labour the Bill may have been thus formed, and however perfect it may be thought as a model, by the gentlemen who bring it in, the object of their zeal is not the mode but the substance; the regulation of the militia, so as to render it the bulwark of our country, by whatever method, is that which they are desirous to accomplish. Care therefore has been taken not to load the Bill with particular clauses, but to leave it general and open; a kind of sketch or outline to be finished and corrected by more able hands, and it is hoped that it will be easily wrought up to a sufficient degree of perfection when it goes into a committee, where there will be an opportunity to consider every part in its relation to the whole, to remove every irregularity, and supply every defect: and the gentlemen who have exhibited it will be ready to resolve every doubt that shall arise, and answer every enquiry that shall be made during the examination.

The Bill, as it stands at present, extends no farther than to the teaching the use of arms and a military exercise, that upon occasion a sufficient number of expert and effective men may be immediately formed into companies and regiments, and brought into the field.

To effect this purpose, the militia-men need only be enrolled from time to time for a year, so that the master, or, if he pleases, his servant, may go and exercise. Nor can it be imagined that any will refuse this in a time of peace, if it is remembered how many offered themselves when the desperate bands of rebellion were within a few days march of the metropolis, and it was probable that the next thing to taking arms for our country was to lay down life in its defence. When this plan, limited as it is, shall take place, we shall become a warlike and formidable nation; for by the execution of such a plan Prussia has acquired all the weight and influence which renders her superior to many other states that have much more extent of country, and a much greater number of inhabitants. The majority of the Prussian troops is a militia, into which every man able to bear arms is compelled to enter; but the establishment of a militia in England does not require the enrolment of more than one man in twenty. Our advantage then, in comparison with Prussia, whenever we shall pursue our own interest, with equal sagacity and diligence, is too obvious to need pointing out; at present, indeed, this is not the case, for by some rules of policy, which are not to be comprehended by every understanding, the paying large subsidies for foreign assistance has been preferred to the obtaining a natural force of our own men; who must necessarily be always upon the spot where they will be required to serve, who cannot be bought off by the enemy, nor rendered ineffectual by prior engagements.

It has been upon a former occasion remarked, that a military force is indispensibly necessary, and it cannot be denied that every nation must be formidable in proportion to the facility and cheapness with which this force is sustained. But what can protect the nation from contempt and insult that is groaning under a load of

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debts, which she despairs to pay, and of taxes which these debts have made necessary? debts which she has incurred by hiring mercenaries for her defence in time of war, and which she must increase by the same means whenever a time of war shall return? debts which therefore must be continually accumulating, till they produce the ruin which they were contracted to prevent? Must not this deplorable situation be certainly known to her neighbours? and will they not injure her without scruple, when they know they may do it with impunity? Will they not treat her remonstrances with equivocation and delay, and at last put an end to solicitation by a peremptory refusal of redress? Have we not been thus treated by the Spaniards and the French? and do they not thus treat the Dutch for the same reason? But did they treat us thus in the days of Elizabeth or Cromwell, when we were a military nation? when every manufacturer was ready to throw down his tools, and take up a musket; and fought not for his pay as a soldier, but for his honour as a Briton? Let us retrieve the influence that we have lost, while to retrieve it is in our power; and if we cannot lessen the burden which has been laid upon us, let us at least prevent its increase, while it is yet to be sustained; in confidence that this Bill will contribute to so desirable an end, I move that it may now be read.

This motion was seconded by general Oglethorpe, and the Bill was read accordingly.

On the 18th of March the Bill was read a second time, and committed to a committee of the whole House for the 20th, which order was adjourned until the 23d, and then the House resolved itself into a committee on the Bill, went through the same with several amendments, and ordered the report next day; but this order was adjourned until the 26th, when an end was put to the session, and the Bill was thereby dropped.

*Debate in the Commons on the Bill to restrain Insurances on Foreign Ships bound to or from the East Indies.**] February 25. The Bill to restrain the making Insurances on Foreign Ships bound to or from the East Indies, being read a second time,

Mr. Alderman *Baker* rose and said:

Sir; when I first moved for this Bill, I gave my reasons at large why I thought such a Bill necessary at this time, and I had the good fortune to find, that they were such as prevailed with the House to give leave for bringing it in; therefore, in order to obtain the concurrence of the House in the motion I am now to make, I should not think I had any occasion to repeat what I then said, but that I find there are several gentlemen present who were not then in the House; and as they are gentlemen, whose approbation I shall always be proud of having, I hope the House will give me leave to repeat, as briefly as possible, what I before troubled you with upon this head, and to add such other reasons as have since occurred to me.

The advantages which accrue to a nation from an extensive commerce I can have no occasion to explain, as they are so well understood by every gentleman in this House; but I must observe, Sir, that as we are situated in an island, besides all the advantages which we have in common with other nations, we derive from an extensive commerce, an advantage which no other nation can from thence acquire; I mean that of a security against being invaded or attacked. It is to this we owe our superiority in naval power, and whilst we preserve this superiority, we can sit secure at home, at the same time that we are wreaking our vengeance upon any nation that dares to give us offence. It is therefore more the interest of this nation than of any other, to cultivate an extensive commerce, and to prevent every thing that may diminish our own, or increase that of any of our neighbours. Now, Sir, among all the modern improvements, there is not one that has contributed more towards the enlarging of commerce, and engaging people even of small fortunes to become merchants, than that of an easy and safe method of insuring whatever a man ventures in that way; and in this I rejoice to say, that we have at present the advantage, I believe, of every nation under the sun. There is no country, at least so far as my knowledge reaches, where an insurance for any sum may be so easily purchased, or where the loss, in case any should happen, may be so safely and so speedily recovered, as at present in this country; and of this, I think it is a plain proof, that all the nations

* From the London Magazine.

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in Europe are daily sending commissions to London for insurance.

This, Sir, is certainly a great encouragement to our own commerce, and even the insuring upon foreign bottoms is, I shall grant, a present advantage to the nation; but yet I think, that we should endeavour, as much as we can, to prevent its being an advantage to the commerce of those nations, who are now, or may hereafter, become our rivals both in commerce and naval power; for surely, the little present advantage the nation may reap by the premiums for insuring upon foreign bottoms, cannot, in the opinion of any gentleman, overbalance the infinite prejudice we may be exposed to, by contributing to increase the commerce of our rivals. What I now say, Sir, is not designed as an argument for our prohibiting any insurance upon foreign bottoms; though, even this I should be for, if it were not for the danger of its lessening so much the number of our insurers, as to raise the price of insurance even upon our bottoms. My design is only against that single branch of trade, which is the immediate object of the Bill now under our consideration.

The East India trade, Sir, is a trade of the utmost importance: it is a trade of infinite advantage to every country where it is once thoroughly established; not only on account of the great riches it brings in, but because it furnishes a vast variety of goods, which may be exported and sold to advantage, in every other part of the world: consequently, it contributes greatly towards an extension of commerce, because it serves to make up what is called the sortment of a cargo for almost every other foreign market; and if we will but recollect the many great families we have now amongst us, who owed their rise to the East India trade, we must acknowledge the benefit it has already been of to this nation. Therefore the preservation of it deserves our utmost care, and the attempts now made by all our neighbours upon the continent to share this trade with us, ought to rouse our attention; for these attempts alone are sufficient to convince even those who understand nothing of trade, that this branch is one of the most beneficial.

Now, Sir, if we consider the difficulty and the vast expence in establishing an East India trade at the outset, we cannot help being surprized how some of the nations in Europe, never much famed for riches, could ever entertain a thought of engaging in this trade. What, then, could give them any hopes of engaging in it with success? I will be bold to say, Sir, it was entirely owing to their having such a safe and easy method of insuring in England, and to the want of proper laws, or the non-execution of the laws we have, to prevent our own people from engaging with foreigners in setting up an East India trade. The ships employed in this trade are so large, and the cargoes so expensive, that it would have been found very difficult, if not impossible, to have freight with a number of adventurers either in Flanders, Denmark, or Sweden, who were rich enough to have furnished, and bold enough to have ventured to furnish, the expence of fitting out such a ship, if they must have taken the whole risk upon themselves; but they knew that whatever sum they contributed for that purpose, they could easily and safely insure at London, and that consequently their risk would be only what they paid for insurance.

This, Sir, encouraged them to form the project, and to contribute towards its success to the utmost of their power; and what was beyond their power to furnish was made up by some rich men of this country, whose avarice tempted them to be guilty of such a high crime against their native country. Our own people, Sir, not only furnished foreigners with insurances, but also with what money they wanted for setting up this trade: nay more, they furnished them with the skill how to conduct it; for several persons who had been employed by our East India company, were so ungrateful as to engage in the service of these foreign companies, and made use of that experience, skill, and knowledge against our East India company, which they had acquired by the favour of our East India company. Against this wicked practice, it is true, a law was made as soon as it came to be discovered; for the first law against it was passed in the 5th of his late majesty, which was about the time of, or soon after the setting up of the Ostend company; and several laws have been since passed for enforcing that law, and for preventing the subjects of this kingdom from engaging in, or contributing towards the establishment or carrying on of any foreign trade to the East Indies, one of which, in my opinion, prohibits by implication what is designed to be expressly restrained by this Bill: I mean the act passed in the 9th of his late majesty, to prevent the subjects of this kingdom from being concerned in promoting any sub-

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scription for an East India company in the Austrian Netherlands; for it is therein enacted, that whoever shall subscribe to, or promote the establishing or carrying on any other foreign company, shall be liable to the penalties inflicted by that act: now, it is certain, that whoever insures upon the ship of any foreign East India company, promotes the carrying on of the trade of that company, and should therefore, I think, be deemed within the description of that act; but as all penal laws, according to the maxim of the lawyers, ought to be strictly interpreted, this admits of a doubt, and for this reason the Bill now before us becomes necessary; and is the more necessary, as it has been hitherto found impracticable to prevent the subjects of this kingdom from becoming adventurers in foreign East India companies; for the concealing of it is so easy, that it is impossible to come at such a proof as may render them liable to a conviction.

In this case therefore, Sir, the only thing we can do for preserving this valuable branch of trade, is to prevent, by an express law, the making any insurances upon foreign ships sailing to, or returning from the East Indies. This, I believe, we may effectually do; for though our insurers are generally men of great character as well as substance, yet no subject of this kingdom, and much less a foreigner, will trust to their word alone. Some sort of policy in writing will be required; and as the broker, as well as the factor for the insured, besides the insured themselves, must be entrusted with the secret, and will always have in their hands a proof sufficient for conviction, no man of substance will underwrite such a policy, if the fact be by an express law made criminal and subjected to a severe penalty; for in all such cases the insurer would be so much in the power of the insured, that he could neither controvert a pretended loss, nor refuse to comply with the most fraudulent demand. Thus every gentleman must see, that the Bill now before us will be effectual for the end proposed; and as it is the only method we can take for preventing our East India trade from being encroached on by foreigners, the many projects daily setting up for that purpose have, I think, made such a Bill absolutely necessary; therefore I shall move for its being committed, and I hope my motion will be unanimously agreed to; for our unanimity upon this head will be of great service, as it will convince foreigners, that this nation will do every thing in its power, without coming to an open rupture, for rendering all their East India projects abortive.

Mr. *William Beckford:*

Sir; although the present Bill is intended only as a local and particular restriction, yet, as it is not founded on that maxim of policy, which ought always to be followed by a trading nation, I am most sincerely and heartily against it; more especially as the hon. gentleman who first proposed it has given no reasons in support of that measure; for, if good reasons could have been found, I know no gentleman more capable and willing to have enforced them. Nay, what is more remarkable, instead of giving reasons in support of the Bill, he has been pleased to urge the necessity of putting the penal laws now in force into a more vigorous execution, in order to support the intolerable monopoly of the East India company.

I agree, Sir, with those who are of opinion, that without the help of insurance, merchants of small, nay even merchants of large capitals, could not carry on their commerce with such security and ease as they do at present; for by means of these offices, every man underwriting a policy is a joint adventurer with the merchant, and if the ship and cargo be lost, the misfortune becomes so diffused, that the loss is scarcely felt by any particular person, the hazard is so inconsiderable, that a merchant can sit down quietly in his compting-house, and calculate the profits of his trade with almost a moral certainty.

I will also allow, Sir, that if no offices of insurance, public or private, were established in any part of Europe, save Great Britain, in that case the preventing, by law, the insurances on foreign ships would in some instances, check the trade of foreigners. As to the preventing it entirely, I am certain it would not, but they would carry on their trade in general as they do at present, with this difference, that particular merchants would not risk so great a capital on a single bottom: for we all know, that many private merchants, and all the public companies, carry on their trade without making insurance, and they find their benefit in so doing. I can say myself, that I am one of those private merchants who find it very advantageous to risk my adventures in general, without any insurance, even from an island where the risk of a total, or an average loss is greater than from the East Indies, arising

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from the difficulty of the navigation, and the nature of the commodity: for as sugar is the essential salt of a plant, it is impatient of moisture, and liable to be damaged in a greater degree by water entering into the vessel, than most other commodities. The loading of a sugar ship is so very heavy as to render the vessel not so buoyant as the dangerous navigation, either through the gulph of Florida, or through the windward passage, in prudence requires; and, for this reason, I have heard an hon. gentleman, who sits under the gallery, (sir John Barnard) declare, that he never desired to underwrite a ship from Jamaica: I say, notwithstanding this, I find it my interest, in general, not to insure.

From this reasoning, I think it highly probable, that men would become adventurers, provided no shop of insurance was established; and as our great companies do not insure at present, it is probable, that by this Bill we shall force the Embden company to pursue their own interest, by standing their own insurers. Sir, this method of insurance is of modern date, invented by the Italians, who first set the example of banks, book-keeping, &c. and were formerly the great merchants of Europe, and engrossed the whole trade of India.

But we are so far from being the only people who have regular offices of insurances, that, on the contrary, most of the great trading cities of Europe have them, either public or private: they are established at Paris, Calais, Lisbon, Bourdeaux, Amsterdam, and Leghorn, and other cities of Italy. So that the practice of insurance is almost universal over Europe, and more so since the passing of a late act, which (although I did not oppose) I always looked upon as a very impolitic act, and highly detrimental to this country; I mean the act that prohibited the French from insuring their ships here during the war. It certainly was a very great loss and disadvantage to the nation; it caused the French to erect a new office at Paris, and another very great one at Bourdeaux, with the duke de Penthievre at their head. The French ministry were by this act awakened from their supineness and lethargy, and gave encouragement to these offices, by which means that business became in vogue: (for let the French king or ministry espouse any measure, the people will certainly run into it;) so that at present (if my information is right) many shopkeepers at Bourdeaux underwrite policies in the same manner as the shopkeepers of Bristol do.

Gentlemen may imagine that insurances are made cheaper here, or at least the money, for which the insurance is made, is more secure, and more easily recovered than in any other part of Europe; but, Sir, I am not so clear in that point as some other gentlemen may be, and my opinion is founded in a great measure on my own experience.

In the late French war, every gentleman knows, that insurances ran exceedingly high, more especially those made on ships sailing from the English and French sugar colonies, which trade is by much the greatest and most advantageous that the French carry on, as may appear by the representations of their council of commerce, or their board of trade, to the royal council. Our insurances from Jamaica ran from 24*l.* to 30*l.* per cent. to pay 98*l.* in case of loss, to return five guineas in case they sailed with convoy. The insurances on French ships ran as high as 35*l.* per cent. from their islands, which, by their situation, were not so much exposed to the danger of the seas and privateers as Jamaica, which lies to the leeward.

This was the state of insurances in the war, and although the French insured with us at so exorbitant a premium, it does not prove that they could not have insured at a cheaper rate in any other parts of Europe. They insured still with us, being accustomed to our shop, where their correspondences were settled, and they have been well used: and every body knows how averse mankind are to make changes and experiments, even where it is to their advantage: this I know by myself, who have constantly sent yearly to the Cork market to buy English herrings at an advanced price, when I could have purchased them cheaper at our own doors. Sir, I say then, that the Dutch did insure much cheaper than we did, and I did not hear of any complaints of their not paying their losses, provided those losses were regularly and justly authenticated. And, Sir, to prove this assertion, I will beg leave to acquaint the House, that by the situation of my property abroad, I had an opportunity of knowing a little of these insurances; and although I was very sensible that great gains were made in the war by the insurers, even from Jamaica, the worst navigation of all

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the islands, yet prudence required that I should not risk all my adventures without insurance, and therefore it was necessary to look out for a shop where I might make insurance to the best advantage. I accordingly discoursed this matter over with Mess. D. and L. (an house of great credit and reputation in the East and West India trade, for I think Mr. D. is an East India director) and complained to them of the exorbitancy of our insurers demands. They informed me, they had policies underwrote at Amsterdam at much more reasonable rates than at London; and as a proof of what I say, I have had the favour of seeing their books, and found they made insurances at Amsterdam an hundred per cent. cheaper than in London, and the loss very honestly and punctually paid: at the same time the Dutch ministry were soliciting our government to have a stop put to our insurances on French vessels. [N. B. Here the extract was read from their books.]

Now, although I have a very good opinion of our underwriters in general, yet I do not think them more secure to insure with than the Dutch; I have not found them so; for I can say, that I have sustained many losses by them in the insurances I made; and I have had disputes with them upon demands, which, if a man may be a judge in his own case, I have thought very unjust. I have one now depending ever since the war, and have chose a very worthy member of this House for my umpire; therefore I hope I may be thought to have some reason for thinking that insurances are not made cheaper, or the money more secure, in case of loss, than in some offices erected abroad.

The intent of this Bill is to obstruct the schemes of a great prince not in the best humour with us; but I cannot think it either prudent or politic to endeavour to irritate him more by this ill-timed partiality.

The Bill seems calculated to prevent the king of Prussia from carrying on a trade to the East-Indies from the port of Embden, by which means he may, in time, become a maritime as well as a great landed power, and fill us with fears, as the king of Sweden did formerly; it is to prevent his interfering, by his supplies of India goods in foreign markets, with our East-India Company.

This I take to be the intent of the Bill (if the Bill has any other intent but affronting the king of Prussia.). I find, by what passed in the House on another occasion, that the alarum bell has been sounded. Embden *delenda est:* as if this nation could be endangered by any schemes of trade, or any other schemes carried on from Embden. The situation and circumstances of Prussia are such, that it is impossible that prince can become a formidable power at sea: his government is entirely military, like the old government of the Mamalukes, and a single miscarriage may prove fatal to all his schemes, as it did to them. His dominions are not situated like those of Sweden, Denmark, France, and other powers concerned in the East-India trade; he wants an extent of sea-coast: and, I must say, the maritime power of every nation will, *cæteris paribus*, be in proportion to their extent of sea-coast.

The principle of this Bill is wrong; it is, like the other schemes of the East-India Company, founded on a spirit of monopoly, which reigns in that weak and ill-conducted company; which monopoly they have long enjoyed, and possibly may, (till the eyes of the nation are opened by its misfortunes) farther enjoy, contrary to the rules of all good policy: but they never can support this monopoly against foreigners, who are not subject to our laws. All politic nations, except England, see the riches, power, and influence that flow from commerce, and therefore they are all courting so fair a mistress; the French, the Danes, the Swedes, the Portuguese, Spaniards, and Prussians, and, in short, all the nations of Europe. And as they all have a right to trade to the East Indies, as much as they have a right to trade with Spain, or any other European power, you may depend on it they will trade to India, unless you can find out some method to make it not worth their while: and I have shewn, by examples, that this Bill will not have that effect; for, should we prohibit insurances being made here, the Prussian company, (if they shall think proper to insure, contrary to what most companies do) will find they can insure in other parts as cheap and as well as in Great-Britain; and they will find it more ready and more convenient to insure at Amsterdam (which is in the neighbourhood of Embden, and no seas to cross, by which situation, if winds should prove contrary, the opportunity of insuring might be lost) than in London.

I beg leave now to show to the House how very advantageous insurance is in



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general to the nation, and, in particular, the insurance from Embden; by which gentlemen may see what a loss this nation will sustain, by preventing our own people from underwriting the Embden policies. That the business of insurance is profitable, there needs no better proof than its being carried on constantly, both in peace and war, for a long course of years, by men of experience and abilities: but, in order to convince gentlemen that it is profitable also to the nation, I will beg leave to observe, that the insured not only supports the insurer, but likewise the office-keeper, who receives so much per cent. on the premium, and is likewise paid half per cent. for settling and adjusting losses, besides the expence of the policy: he likewise supports the merchant, or factor, who draws his commission on making the insurance; and, lastly, the dealer in exchange is paid his commission for remitting the money recovered: if to this be added the premium which must be given to insure the insurer, in case of a loss, the sum total then paid by the insured will, after a little consideration, appear much larger than some gentlemen may have at first imagined. I hope, therefore, this short sketch of the expence attending insurances will convince the House of our advantage from the business of insuring foreign ships and goods.

I must observe, Sir, there is another circumstance in the present case, which is worthy of consideration: these Embden ships (as I am informed) were bought of a great builder, Mr. Bird, in our river—were entirely rigged and victualled here; so that their whole outset was so much gain to the nation. They were then insured out and home at sixteen guineas, when our East-India ships were insured out and home from seven to eight. And this difference does not arise from the real risk of the Prussian ships over and above that of our own, but from the advantage taken of every new adventurer: for these ships are as good as our East-India ships—are as well found and rigged; and, I dare venture to say, will be as well navigated, and as skilfully: for it is to be supposed some of our best sailors will be concerned in the navigation, notwithstanding what has been published in the Gazette. I beg leave farther to observe, that this extravagant premium of sixteen guineas will, in a great measure, eat up the profits of the most successful voyage.

What policy, therefore, in God's name, must this be, to throw such an immense profit into the hands of foreigners, purely to gratify the ill-timed schemes of a monopolizing company, and of a few modern politicians! This company has been the favourite of the government, and has been always encouraged without a good and sufficient cause; for notwithstanding the many favours granted them, they have shamefully neglected their settlements in India, and suffered the honour of the nation to be trampled on, not only by the French and Dutch, but by the natives. By their negligence, and ill timed frugality, they suffered Fort St. George to be taken, which they might have preserved: for the government always showed themselves ready to support them, and did support them at an immense expence; and all this was done to keep up the credit of their stock at home, and to make large dividends, when they owed great sums abroad, and paid 9*l.* per cent. for money, in order to enable their factors to make the necessary investments for the European markets.

If the ministry are determined to have the East-India trade flourish, and not only to check the growth of this infant Embden company, but every other company in Europe, let them open our India company under proper restrictions. Let the forts and settlements be supported by a duty laid on all adventures sent to India, which duty is to be paid at one or other of the company's forts, or at the India or Custom-House; and, besides this, let the company enjoy an exclusive trade at their several forts, and no merchant be suffered to trade within the jurisdiction of those forts without their consent. By this method the company would have the benefit of their ground-rents at their several forts, and their other advantages of sovereignty, and an exclusive trade within the districts of their forts: and these advantages, I am certain, would enable them to support their forts and settlements in a better manner than they have hitherto done, provided they were willing so to do; and the private traders would then have an opportunity of seeing, and giving an account of the condition of their forts to the government.

If this was once done, I am certain there is not a creek, nor corner in all India, that would not be filled with British traders and British manufactures, and the increase of the revenue would be immense. No tea then could be smuggled, for it



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would sell as cheap, or cheaper in England, than in any other part of Europe; whereas at present, by the East-India company's having the monopoly of teas and East-India commodities, they can fix their own exorbitant price on them, so that the government cannot gain to themselves that benefit which ought to be expected from lowering the duties. No company in Europe, old or new, could withstand such a competition.

Let, therefore, the East India company keep their forts and settlements, and receive the rents and profits arising from those forts, but let the nation seek out new places of trade within the limits of their charter; let the bold, adventuring merchant be permitted to carry the cloth and manufactures of Great Britain into that vast, expansive, rich world: it is a field of commerce so extensive—an harvest so plentiful, that a low, distressed, spiritless, interested company has not force to reap and gather the fruits of such a trade. What a prospect of advantage is this to the nation! How immensely would your customs rise! How would the nation be benefited! And surely a more proper and favourable time never was. You are in peace; you have reduced the interest of money to three per cent. consequently men will be glad to employ their money in trade, when they are sure, by sitting still, they cannot reap greater advantages than three per cent. And this, in my opinion, is one of the many great advantages that are to arise to the nation from this reduction of interest. But a wise, trading nation, to sit down tamely in the distressed condition we now are in, as to our finances, and suffer a few interested, spiritless directors in Leadenhall-street, to dictate such a public measure, and monopolize the trade of the most extensive and richest part of the globe; to suffer them to distress this realm and its colonies abroad, by virtue of a charter, the bounds of which extend from the Cape of Good Hope all over India, is not reconcilable to common sense.

Many gentlemen here know, that, formerly, the sugar colonies were supplied with negroes from Madagascar, a vast island, abounding with slaves, and other rich commodities, from whence the colonies drew large quantities, till the East India company interfered, and prevented private traders carrying on a commerce, which they despised. I only just mention this, to prove the distress of the colonies, from this company's having so great and extensive a charter.

It is possible an administration may imagine, that this company may furnish money in time of exigencies; but an hon. gentleman has shewed, that the best and readiest way to procure money, on reasonable terms, is by an open subscription, and not having recourse to companies or stock-jobbers.

The flourishing condition of the French, and the large strides they make to engross to themselves the power of India, call loudly for new measures, and ought to awaken the attention of the administration, and put them on proper methods and schemes to obstruct their trade, and the trade of any new company, set up without our connivance. Opportunities have offered, I am certain, and plans have been laid before the ministry, which would have, in great measure, answered these purposes; let us follow them.

But let us not, for shame, endeavour to monopolize the trade of India from foreigners, by so weak and ineffectual a method as the present Bill; as if, by preventing your own subjects from underwriting the policies of foreigners, you can prevent or at least check the growth of this infant Embden company. Sir, it is an ill-timed scheme, too partial and particular, and cannot possibly have any good effect. We are, by this Bill, grinning and showing our teeth at a great prince, without being able to bite or hurt him: and, at the same time, we are injuring ourselves, in a very essential manner, by throwing great part of the profits of his company into the hands of foreigners, which otherwise would fall to the share of our fellow subjects.

Upon the whole, I hope I have made appear to the House, that the business of insurance is of great advantage to the nation; and that, if we were not to allow foreigners to insure with us, they could as conveniently insure with our neighbours; and that those insurances are made upon as cheap, or cheaper terms than amongst us; and that they will be as secure of their money.

I have shewn the ill effects which attended the last Insurance Bill, particularly that it occasioned the French to set up offices of insurance at Paris and Bourdeaux. I have shown that most of the trading towns in Europe have offices of insurance, private or public, erected; and that it will be more convenient for the Prussians to insure at Amsterdam than at London, provided they shall think proper to insure, contrary to the custom of companies, who never insure.

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I have shewn that this is a very partial and impolitic Bill, and tends absolutely to alienate the affections of his Prussian majesty, without the most distant prospect of advantage.

I have proved that the Prussians can never become formidable to us by their trade, not having sufficient extent of sea-coast: for that the force of every nation at sea, will, *cæteris paribus*, be as their extent of sea-coast.

I have shewn the very foundation of this Bill to be wrong, as it is founded on the absurd principle of monopoly, which this nation can never obtain against foreigners, although it may be established against our own people; and that all Europe has as much right to trade to India as we have, and will exert that right, unless we can find a method which will render it not worth their while.

I have shewn that the only method of doing this, is by laying open the India trade under proper restrictions, by which means you would not only check the growth of the Embden company, but prevent the increase of all the companies in Europe, and raise the revenues of the kingdom to an inconceivable height, and cause such a vent of the cloth and manufactures of the nation, as would surprise every man. I have shewn, that, if we do not exert ourselves vigorously, the French will engross the power and trade of India.

And, lastly, I have shewn that, as we are in peace, this is the proper time for exerting themselves, more especially since we have reduced the interest of the funds to three per cent. which, in some measure, obliges many to become adventurers in trade who would not think of it, if the interest of money was higher. And, for these reasons, Sir, I do hope the Bill may not be committed.

Mr. Alderman *Baker*:

Sir; as there is no gentleman whose opinion I have a greater regard for, than for that of the hon. gentleman who spoke last, and as his knowledge and integrity are so well known, that his opinion must always have great weight with every gentleman here, I hope the House will give me leave to add a few words to what I have before said in favour of this Bill, by way of answer to the objections he has been pleased to make against it. As to the maxim of policy, which he says ought always to be followed by a trading nation, I really do not know what maxim he means, unless it be that which says, that no restraint ought ever to be laid upon trade, but that it ought always to be left to pursue its natural course. If this be the maxim referred to, the present flourishing condition of our commerce, manufactures, and navigation must convince us, that it is a general maxim, which, like most others, admits of a multitude of exceptions; and I hope to shew, that this Bill is founded upon what has always been thought to be a very just, prudent, and necessary exception.

Let us but recollect, Sir, the many laws we have for laying restraints upon trade, especially those of Edward 3, and queen Elizabeth, and we must allow, that most of our present manufactures were owing to restraints upon trade; and if we but look back to the famous Act of Navigation in the reign of Charles 1, or the act passed in the same reign for making it felony to export sheep or wool out of the kingdom, we must confess, that the great improvement of our navigation, as well as manufactures, is chiefly owing to restraints laid upon trade. Some of these restraints may, now that our trade is established, seem to be unnecessary; but the success that attended those restraints in the infancy of our trade, must point out to us one general exception from this general maxim, which is, that we ought never to allow any of our rivals in trade to make an advantage by our people, or by our native commodities, if by any restraint we can confine that advantage to ourselves, and this exception militates much more powerfully against those who may probably be our enemies, than against those who in all probability will be our friends and allies in the next war we happen to be engaged in.

It is upon this exception, Sir, that the present Bill is founded; and upon this exception, it must be allowed, that it has as solid a foundation as any Bill of the same nature can have; for as to the prince who is the patron of the infant East India company, against which this Bill seems chiefly to be designed, we can never expect, that he or any of his successors will be our friend, whilst we have the good fortune to have the present royal family upon our throne, or to be in close alliance with the House of Austria; therefore the hon. gentleman needs be under no concern about what may, or may not, irritate that prince: our only concern ought to be, and I hope always will be, rather to prevent the effects, than to lessen the motives, of

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his displeasure; for the latter can never be totally removed, but by such a revolution in our government, as will never be attempted by any man, who has a true regard either for our liberties or our religion.

For this reason, Sir, if this Bill can any way tend to prevent the effects of that prince's displeasure, it must be allowed to be a good Bill; and it must be allowed, that next to that of diminishing his power, the best method for this purpose is to prevent its increase; but do not we know by experience, that a flourishing trade, especially an East-India trade, adds to the power of every country where it is established? Can we, then, balance a moment about doing all that is in our power, for preventing the establishment of such a trade in the country of a prince, who in all probability will be one of our most inveterate enemies? But this is not all, Sir; the establishment of this trade will bid fairer for encroaching upon our own East India trade, than any such trade hitherto set up in Europe; for every one knows, that Hamburgh is the great mart for all those commodities which we bring from India, and which cannot be consumed here at home; and every gentleman may see by the map, that the passage from Embden to Hamburgh is much easier, safer, and cheaper, than that from London to Hamburgh. Is it, then, possible to doubt of its being incumbent upon us to restrain our own people from contributing towards the establishment of this trade? Can any one suppose, after what the hon. gentleman himself has said, that a ready and cheap access to insurance upon their ships and cargoes, will not promote the establishment of this trade?

Sir, I have so good an opinion of the understanding and judgment of the hon. gentleman who spoke last, that as it is always with diffidence I oppose his sentiments, so I am proud to find them in any case the same with mine; therefore I was glad to hear him admit, that the business of insurance is of great advantage to trade in general, as well as to every particular branch; but says he, if there were no such thing as insurance, there would nevertheless be some trade, because some men would be so adventurous as to carry it on at their own sole risk. In this I shall readily join with him; but then he must join with me in admitting, that in such a case, men of small fortunes could never with any sort of prudence embark in any foreign trade; and he did admit, that even merchants of large capitals, could not carry on their commerce with such security and ease as they do at present; to which I shall add, that if there were no insurance, even such merchants could not push their commerce to such an extent as they do now by this method of insurance; for a merchant of 20,000*l.* capital may embark 15,000*l.* upon one bottom, when he knows, that by insuring her he cannot lose above 8 or 10*l.* per cent. but it would be the height of imprudence in him to embark half that sum upon one bottom, were he by himself alone to run the whole risk.

But, says the hon. gentleman, our great companies do not insure at present; and it would be the interest of the Embden company to stand their own insurers, which we shall force them to pursue by passing this Bill. Sir, I shall grant that the great East-India companies, such as that of Holland, France, and England, do not insure, nor have any occasion to do so, because the loss of two or three ships would not much affect their capital or credit; but there is not another East-India company in Europe that does not, and it would be madness in the Embden company not to insure; for, considering the smallness of their capital, the loss of two or three ships without any insurance, would ruin them past recovery. The hon. gentleman himself has told us, that he sometimes stands his own insurer, but at the same time he confesses, that he does not always, and even admits that it would have been imprudent in him to risk all his adventures without insurance; yet his private fortune is, I believe, alone equal, or very nearly equal to the Embden company's whole capital: how much more imprudent, then, would it be in them to risk all their adventures without insurance, as their adventures will generally consist of the far greatest part of their capital, whereas the hon. gentleman's, I believe, seldom, if ever, amounted at once to one year's produce of his estate?

Thus, Sir, it appears from what the hon. gentleman himself confesses, that it would be imprudent in the Embden company to stand their own insurers; and, indeed, I should wish for nothing more than that they would do so. There would then be no occasion for such a Bill as this; for by the first ship they lost, they would probably be undone. But I am persuaded they will always insure, and the high price they paid here for insurance upon the first ship

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they fitted out, is a proof of their being resolved always to do so, if it be possible. That price I shall admit was so high as to give their rivals a great advantage over them; but if that ship returns safe, the insurance upon the next will cost them no more than the common rate, if this Bill be not passed into a law. New projects are always deemed hazardous, therefore the insurance upon such must run high, as the insurers are wholly unacquainted with the knowledge and capacity of the undertakers; but upon the safe return of their first ship, our insurers will be assured of what may be true, but what they could not before know: they will be assured that, as the hon. gentleman says, the Embden company's ships are as good, as well found and rigged, and as skilfully navigated, as the ships of our own East India company: when they are assured of this, they will ask no higher, or but a very little higher price, than what is paid for insurance upon our own East India ships; and thus that company will grow to maturity, which, by passing this Bill, we may probably nip in the bud.

What I have hitherto said, Sir, by way of answer to the hon. gentleman's objections, he seemed to be aware of, and therefore he laid the principal stress of his argument upon informing us, that there were insurance offices and insurers in other countries as well as in this, and that insurances might be made at as cheap a rate, and losses as speedily and safely recovered, in several parts of Europe, as here at London. If I had thought so, Sir, I should not have troubled you with this Bill, nor should I push the Bill, if I could be convinced of it. I know that there are insurance offices and insurers in other countries as well as here; and in some one branch, or at some one time, it may happen, that an insurance may be had as cheap, or a little cheaper than here; for as the value of the risk requires a very nice and difficult calculation, or rather cannot at all be calculated with any certainty, the price of insurance may be called a fashion, which like other fashions, is regulated by those who have the chief character amongst those who follow it, and they may at one particular time, or in one particular branch, set too high a price here, or the chief insurers abroad may set too low a price there. With respect to the insurance from Jamaica in particular, it may probably happen, that the Dutch set sometimes a less price upon it than we do, because they regulate it according to the price from Curassoa, without duly considering that the navigation from Jamaica is much more dangerous and difficult; for from Curassoa they have the land breeze to carry them along the northern coast of South America, until they get to the eastward of all the islands, when they may ply to the northward with great ease and safety; and as their ships are generally stout ships and well manned, the Spanish guarda costas seldom chuse to attack them. But a little experience would soon convince the Dutch, that our insurers put no higher price upon the insurance of ships from Jamaica than the risk really deserves.

Then as to the recovery of losses, Sir, it is certain, that our insurers are men of fortunes superior to any in the world; and though disputes may sometimes happen, yet I am sure, I may with truth say, that they are inferior to no set of men whatever for honour and justice. When there is a real cause for dispute, it may require some time before that dispute can be determined; but as all such disputes are usually determined by a trial at law, the suit is not near so tedious as such suits are in other countries; and to the honour of our judges, I believe every gentleman will grant, that a man, whether native or foreigner, may depend more upon impartial justice in this country than in any country in the world.

Whatever, therefore, may happen as to particular times, or particular branches of trade, I will say, Sir, that insurances are now in general cheaper and safer in England than in any country in Europe; and of this I cannot bring a stronger proof than its being notorious, that all the trading countries in Europe now send hither for insurances; for though people may for some time go to a shop they have been long accustomed to, without being at the pains to inquire where they may meet with better usage, yet this will not long continue, if such another shop can be found: they will all by degrees make the enquiry; and every one, as soon as he has found a shop where he is better used, will leave that he has been accustomed to; therefore I do not in the least doubt, but that many foreigners have made the same enquiry which the hon. gentleman was pleased to make; but from their continuing to insure at London, I must suppose, that very few of them made the same discovery; for cent. per cent. is such an advantage as

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every man in his right senses would grasp at, when it can be fairly and honestly obtained. For the same reason, I believe, the hon. gentleman will no longer send to Cork market for English herrings, though in this case there may be a conveniency, which may overbalance the difference of the price, because most of our West India ships, outward bound, take in salt beef and other provisions at Cork, which is generally the chief part of the cargo; and for the sake of stowage, and upon several other accounts, they may find it necessary to delay taking in any herrings till they arrive there. Therefore this can be no proof of people continuing to go to an accustomed shop, after they have discovered that they may have better usage elsewhere; and indeed it is so contrary to the nature of mankind, especially the trading part, that it can in no case be easily believed.

For this reason, Sir, I must still be of opinion, that insurances even for small sums are now in general cheaper and safer at London than any where else; for as to very large sums, such as that which must be insured upon a trading ship bound to the East Indies, I very much doubt whether an insurance can be found any where in Europe, except at London; there being no other city in Europe where there are such numbers of rich monied men, which is one of the many advantages we reap from our public funds, every shilling of which may be called ready money in the proprietors pocket; whereas a man may be possessed of a vast land estate, and yet have very little money at command, to answer a loss, should he begin to deal as an insurer. It is this command of ready money that has induced such numbers of our people to engage in the business of insuring; for besides our public offices, there is now, I believe, as great a number of rich men who deal in that way in England, as in all Europe beside; and I am convinced, that our public offices and private insurers in England have a larger sum of money at command, than all the other insurers in Europe together; which is another argument for proving, that insurances must be cheaper and safer here in the general, than in any other country in Europe: this makes me believe, that it will be very difficult, if not impossible, for the Embden company, to find any where a safe insurance for such large sums as they must insure, if they be deprived of the power of insuring in England; and if they should find it impossible to insure, they must either give over the East India trade, or they will run a very great risk of being undone in a few years. Therefore it is apparent, that by giving up the advantage we might make by insuring upon their East India ships, we shall have at least a chance, and I think a very good one, of preventing their interfering with us in the East India trade.

As to the advantage which the nation reaps by the business of insurance, I shall most readily grant, Sir, that it is very considerable; but surely it must be allowed, that the nation would reap a greater advantage from the trade which is insured, than it can reap from insuring upon that trade. Suppose an Embden East India ship to be worth 100,000*l.* and insured here at the rate of 16*l.* per cent. which amounts to 16,000*l.*; we can reckon this whole sum of 16,000*l.* clear profit to the nation; but suppose that, according to the doctrine of chances, we may reckon the clear profit at 50*l.* per cent. in that case the clear profit to the nation would be only 8,000*l.* Now suppose that by demolishing the Embden company, our East India company should be able to employ yearly 100,000*l.* more in the East India trade than they could otherwise, and that by all the money employed in that trade, the nation has a clear profit of 50*l.* per cent.; for I must observe, that a great part of the company's expence is clear profit to the nation, is it not evident that the nation would by this means reap a clear profit of 50,000*l.* and thus by giving up the opportunity of reaping a clear profit of 8,000*l.* by insurance, the nation may probably reap a clear profit of 50,000*l.* by trade. Is not this, Sir, an advantage worth aiming at? Would it not be madness in us to risk the loss of 50,000*l.* for the sake of taking 8,000*l.*?

As there is no answering or evading arguments from figures, and as the hon. gentleman, perhaps, foresaw that they would be brought against him, he found himself under a necessity to exclaim against the monopoly of our East India company, and propose a method for laying the trade open. Sir, I am as much as any man can be against a monopoly in any trade, which can be carried on without it; and if the East India company made a bad use of their monopoly, I should be as ready as any gentleman in this House to make an enquiry into their conduct; but I am fully convinced, that they now do as much as they can for the benefit of the nation as

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well as their own; and in every branch of trade where forts and settlements must be established and maintained, and where great application as well as rich presents must be made to foreign potentates or their ministers, a company with an exclusive privilege must be set up for carrying on the trade, or the government itself must be at all that expence. This, Sir, is the case with regard to the East India trade more than any other: in short, it is impossible, and always will be, to carry on that trade without a company; for application must often, and almost upon every occasion, be made to some of the eastern monarchs, and these monarchs require such ceremonies, and such submissions, that it would be inconsistent with the honour of the nation, to have any such application made in the name of the nation, or of the sovereign. It would give them such a mean opinion of the nation, that it would disappoint us in every application we found it necessary to make: whereas, when they see our company's governors making a figure, as they do and must make in the East Indies, and are told that this governor is only the servant of a few merchants who are the subjects, and but low subjects, of a great sovereign in Europe, they form a high opinion of the power and riches of the nation; and think it their honour as well as interest to cultivate a friendship with us.

This, Sir, makes it necessary for us to have always an East India company; and that it is so, is confirmed by the practice of all the nations in Europe, who have attempted to open a trade to India, as every one of them have for this purpose established an East India company. Whether this company ought to be an open or an exclusive company is a question of another nature, and a question that, I am sure, cannot be determined during this session; but as to what has been proposed by the hon. gentleman, I think, we may from experience conclude, that a company under such regulations could not long subsist, or be able to support the forts, settlements and embassies in the East Indies; for what he proposes is very like what was done in 1698, with regard to our African company, which is a trade that never required any embassies, or expensive applications to powerful princes: and yet it is well known, that from that time our African company has daily decayed, and that their forts and settlements on that coast would have been long since abandoned by them, and possessed by our rivals, if they had not been supported by the public expence. That trade, it is true, is now put upon a different footing, and such a footing as was never heard of before: how it will thrive upon this new footing, I shall not pretend to foretel; but I think, we should at least wait until we can see how that trade will prosper upon this new footing, before we venture to put our East India trade under that or any other new regulation.

To conclude, Sir, I have, I think, clearly shewn, that the nation cannot lose above 8 or 10,000*l.* by passing this Bill, and that if we should thereby prevent the establishment of the new East India company at Embden, and of course every future East India company, we shall gain many hundreds of thousands. This is so plain, and the probability is so much in our favour, that I cannot suggest to myself so much as a plausible reason why any gentleman should be against the motion I have made, and therefore, I hope, as I said before, that my motion will be unanimously agreed to.

Mr. *Humphry Sydenham:*

Sir; I shall in a very few words sum up what I have to say upon this subject, and indeed, it does not require a great many; for all the arguments made use of by the hon. gentleman who spoke last, not excepting even his arguments from figures, were founded upon suppositions that cannot reasonably be supposed, or upon facts unsupported by any proof, and such, too, as from the nature of things are highly improbable. He set out with supposing that the prince who is the patron of this Embden company, will always be one of our most inveterate enemies: this may be so, whilst we continue in close alliance with the House of Austria, and that House seems resolved to revindicate Silesia as soon as an opportunity offers: but how can the hon. gentleman know or suppose, that we shall always continue in close alliance with the House of Austria? For I remember since we entered into an alliance with France against the House of Austria; and if we should do so again, we might perhaps find this very prince a more firm friend than we at that time found his ancestor.

The hon. gentleman next supposed, Sir, that if the Embden company stood their own insurers, they would be soon undone. That this is possible, Sir, I shall grant:

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but I must insist, that it is highly improbable; for if an inquiry were to be made into the history of the East-India trade, I believe it would appear, that of all the ships that have been sent thither from Europe, within the last 50 years, nineteen out of twenty have returned safe and without any damage; and, I believe it will be granted, that if but ten of that company's ships return safe before they lose one, they will be fully enabled to bear the loss of that one. But this is not all: we must not only suppose it impossible for the Embden company to stand their own insurers, but we must suppose, that if we prevent their insuring here, it will be impossible for them to find insurers any where else for such a large sum; and to suppose that all the insurers in Holland and France, are not able to insure 100,000*l.* or will not be willing to insure such a sum at such an extravagant price as has been already paid here, is, I think, as unreasonable a supposition as ever was supposed. I have said, Sir, an extravagant price; because, if for 50 years past not above one ship out of twenty has been lost or damaged, the insurance, according to the doctrine of chances, ought not to exceed 5*l.* per cent. and consequently if our insurers received 16,000*l.* for insuring 100,000*l.* upon the first Embden ship bound to India, they had 11,000*l.* clear profit.

Sir, I do not trouble my head about the question, whether the insurance be cheaper and safer here than in any other part of Europe: if the fact be true, that commissions for insurance are sent here from all parts of Europe, more frequently than to any other place, (which, by the by, stands unsupported by any proof) I shall grant that it may be true. But whether it be true or not can be of no weight in the present debate; for if the Embden company can stand their own insurers, or if they can insure, though at a higher price any where else, this Bill can no way contribute towards preventing their establishment; and their having insured their first ship is no proof of their being resolved always to insure; it was prudent and cautious in them to insure their first adventure, which, as it is already done, we cannot prevent; but if their first ship returns safe, and makes a good voyage, their profits upon her will enable them to stand their own insurers upon the next; and if two or three more of their ships return safe before they lose one, they will probably resolve to stand always their own insurers.

But these I have mentioned, Sir, are not all the improbable suppositions that must be supposed for rendering this Bill necessary or useful. We must next suppose, that this Embden company will, by underselling us, beat us out of the Hamburgh market. This, I shall grant, is not very improbable, considering the extravagant profits which our monopoly company have always insisted on; but to give any weight to this supposition, we must add another which is highly improbable, and that is, that if we prevent the establishment of the Embden company, no other company can beat us out of that market. Now as the French already carry on a very great trade to Hamburgh, and as the passage from Gottenburg or Copenhagen is but a mere trifle more expensive than that from Embden to Hamburgh, I will say, that if the Embden company could beat us out of the Hamburgh market for the sale of East-India goods, the French, Danish, or Swedish companies will do the same, and the two latter lie more convenient for the markets at Petersburgh, Dantzick, and all the other ports in the Baltic, than that of Embden. Consequently, either the Embden company can do no injury to our trade, should it be established, or if it could, our trade will equally suffer from some other company, should that at Embden be demolished.

This Bill is therefore, Sir, either absolutely unnecessary, or it will be absolutely ineffectual: nay, what is much worse, it is mischievous; for if the Embden company continue to insure their ships, we are by this Bill to give up a certain clear profit of 10 or 12,000*l.* a year, perhaps double that sum, without so much as a prospect of any compensation; and it will be a second step towards driving from this country the whole business of insuring. An insurance office, Sir, is of the same nature with a shop: a stock of ready money, a stock of goods, signifies nothing unless you can procure customers: by our law against insuring French ships during the war, we not only forced them to open a shop for insurance, but we drove a great number of our own customers to their shop, and by this Bill we are to drive a new number of our own customers thither; for if this Bill passes into a law, not only the Embden company, but all the merchants at Embden will resort to the French shops for insurance: by this means they may gain such a credit, that in a few years France may become the chief market in Europe for in-



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surance; for I very much fear that, notwithstanding the late increase of our public debts, which I now find is to be deemed a national advantage: I say, I very much fear, that the number of rich men is in the wane in England, and in France upon the increase.

In short, Sir, I cannot suggest to myself any one reason for the introduction of this Bill, but a selfish humour in our East-India company, who cannot bear being obliged to sell at 40, or perhaps 30*l.* per cent. those goods which they have for so many years sold at 50*l.* per cent. profit; and a silly pettish humour in some others against a great prince, only because he shews a proper resentment of some projects that were formed against him not many years ago, and some that are now upon the anvil. But neither of these reasons will, I hope, be so far adopted by this House, as to induce us to pass such an unnecessary, ineffectual, and mischievous Bill. On the contrary, these reasons should induce us to reject the Bill with indignation, and to set on foot two inquiries of a very different nature. One, in order to discover why our East India company are so much afraid of the setting up of other East India companies in Europe; for if they sold all European goods in India, and all Indian goods in Europe, as cheap as they could possibly be sold, they could not have occasion to be afraid of any rivals; but that they neither do so, nor have ever done so, is, I think, manifest without any inquiry; first, from the general rumour against them; secondly, from their having an exclusive privilege; and thirdly, from the many East India companies that have been lately set up, or attempted to be set up. Therefore, without any inquiry I may prophesy, that if we do not soon put our East India trade upon some footing different from what it is on at present, we shall in a few years neither have a settlement, nor a ship to sail, beyond the Cape of Good Hope.

The other enquiry, Sir, which this Bill ought to put us upon, is that of inquiring how it comes, that one of the greatest princes in Germany is now so closely linked with France; though his ancestors for a great number of years past, were always among the first to enter into, and to support with all their might, a confederacy against that nation.

Both these enquiries, I say, Sir, ought to be the consequence of our having such a Bill as this offered to our consideration; but whatever we may do in either of these respects, I hope this House will not shew itself so like a Turkish divan, as to be governed by the selfish humour of a company of merchants, or by an insignificant pettish humour of a few courtiers; and therefore, in order to manifest our honour and independency, I hope this Bill will be rejected with disdain.

The Bill was then ordered to be committed: and was afterwards passed.

*Bill for preventing Robberies and regulating Places of Public Entertainment.*] The profligacy of the common people at this time called for some legal restraint; for not only every city and town, but almost every village, had assemblies of music, dancing, and gaming. This occasioned a prodigious dissipation of the time, money, and morals of the lower people. Robberies were so frequent, that the enormity of the crime was almost effaced in the minds of the people; and nothing was more common than to advertise in the news-papers, an impunity to any person who could bring, to a party that was robbed, the effects that had been taken from them, and that too with a reward according to the value. Those disorders were ascribed, in a great measure, to the extravagance of the common people, and therefore a Bill was brought in, "For the better preventing Thefts and Robberies, and for regulating places of public entertainment, and punishing people keeping disorderly houses." The operation of this Bill, when it passed the House of Commons, was confined to London and Westminster, and twenty miles round; and all persons within that circuit, were required to take out licences from the justices of the peace of the county, assembled at their quarter sessions, before they could open any room or place for public dancing, music, or any other entertainment of the like kind. Several other regulations regarding idle, disorderly, or suspected persons and houses, were inserted in the same act, and pecuniary as well as corporal penalties were affixed to the transgressors. When this Bill went to the Lords, they thought so well of it, that they extended the operation of it all over England. But as a tax was laid by it upon the subject, when they returned the Bill to the House of Commons, their amendments were unanimously disagreed to, because they would not suffer the Lords to alter any Bill that was to affect the purse of the



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subject. They therefore desired a Conference of the Lords, and appointed a committee to draw up Reasons against the Amendments. The Lords, on the other hand, having never formally given up their right to amend Money-Bills, could not receive the true reason of the dissent of the Commons without giving up that right, or coming to an open breach with them. The Commons, therefore, to avoid so disagreeable an emergency, drew up reasons against the Amendments, which had no regard or connection with the true Reason of their disagreeing with them; and the Lords, rather than so good a Bill should be lost, agreed not to insist upon their Amendments; and thus the Bill passed, and received the royal assent.

*Debate in the Lords on the Bill for annexing the Forfeited Estates in Scotland to the Crown unalienably.**] March 17. The Bill intituled, "An Act for annexing certain Forfeited Estates in Scotland to the crown unalienably; and for making satisfaction to the lawful creditors thereupon; and to establish a method of managing the same, and applying the rents and profits thereof for the better civilizing and improving the Highlands of Scotland, and preventing disorders there for the future," being read a second time, and a motion being made that the said Bill be committed,

The Duke of *Bedford* rose and said:†

My lords; as I had a jealousy of this Bill from the first time I heard of it, I took the first opportunity after it came up to this House to peruse it, which I did with great attention, and I must say, that the more I consider it, the more I am against its being passed into a law. This, perhaps, is an opinion in which many of your lordships may at present differ from me; therefore I shall beg leave to give my reasons, and that I may do it in some sort of method, I shall endeavour to shew, first, that what is proposed by this Bill is impracticable; 2dly, that it is dangerous; and, 3dly, that the utility to be expected from it can never be worth the expence.

The preamble, I shall admit, my lords, is very plausible; to strengthen the foundations of the future tranquillity of this kingdom, is what the administration as well as the legislature ought always to have in view; but the Bill no way answers the preamble, because the purposes said to be intended are, in my opinion, absolutely impracticable, and if they were practicable I doubt much if they will be pursued. To propagate agriculture and manufactures in every part of the kingdom is certainly a very good design, but in a part of the island where the people understand nothing of either, this can be done only by sending people thither who understand agriculture and manufactures; and this, I am afraid, never can, or at least never will be done by the public; for what sort of people can you get to go thither? Can you expect that people who are settled in farms or manufactures in England, or in the low country of Scotland, will leave their settlements and go

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* From the London Magazine.

† Notes of Debate on the second reading of the Bill for annexing the Forfeited Estates in the Highlands to the Crown unalienably, &c. March 17, 1752. From the Original, in the hand-writing of Lord Chancellor Hardwicke.

Duke of *Bedford*, *con.* Nothing good in this Bill except the Title, and a few words in the preamble—Shall keep a method—Three lights:

1. The end of civilizing the Highlands not practicable by the Bill.

2. If it was, the danger that may accrue to the public will counterbalance it.

3. The expence burdensome and unnecessary.

1. As to the first—impracticable.

Foreigners cannot settle, unless an armed force be kept up to support and defend them—No English will go and settle there upon the encouragements given by this Bill—Foreign Protestants much less—They will go to fine climates—Will not go from a better to a worse—Two other kinds of foreigners as to this—Highlanders of other clans—Lowland Scotch—There are Highland clans well-affected—Munros—Mackays. As to the practicability with regard to the present inhabitants.—What can be done with the present inhabitants? Can you turn out and banish them all? If not, what good would ensue from it?—Only change the lords—No good to take them from the lords they are now under to those they shall be put under. The encouragement not sufficient—Only one fourth of the rent sunk—Only to encourage the old tenants to take them, and instead of being under the power of a Macdonald or Macpherson, to be under the commissioners—Estate of Perth—With difficulty that the late lord Perth forced them into the Rebellion.

2nd point. If this scheme practicable, it would be highly dangerous to the public. The



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to the highlands of Scotland? Can you imagine that any of the industrious Protestants of Ireland will go thither? If any should agree to go, it would be wrong to draw them from thence, where the country in general is but thinly peopled, and where the Papists far exceed the Protestants in number: then as to foreign Protestants, either from Germany or France, they generally chuse to go to our plantations in America, and such of them as chuse to come to Great Britain or Ireland

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end proposed, to prevent future rebellions; but it will encourage them—The great sums of money paid—Who are to be the commissioners?—The acting ones must be Scotchmen and Highlanders—No salary or reward—Interest and power—They must be Highlanders—the most formidable power—will look upon the commissioners as their lords—Mentions instances—Hazard sloop—John Comynes the king's collector of the customs was concerned in that—Enjoys a better place at Aberdeen—A parson prosecuted in Scotland for wilful fire-raising—Estate of Robertson of Strowan forfeited in 1690—Macpherson of Clunie lives publicly at his own house—Lord Pitsligo—This Bill a job to serve a present turn—tends to Elections.

6 pag. Power to treat with proper persons to purchase the Superiorities—Power to appoint persons to treat for these Superiorities—The time unreasonable—The lawyers upon their circuits—It might have been brought in either of the two last sessions.

3rd point. The expence heavy and unjust—being to be paid out of the first aids to be granted by parliament—That must be English money—Should have been English Commissioners—Scotland does not pay a 42d part—To the House-tax nothing—To the Coach-tax 4th year nothing—To be determined by Scotch courts—National partiality—The Bill not only unreasonable but unnecessary.

Lord Chancellor *Hardwicke*. The rise of this Bill—The zeal—This scheme in view at the time of the Jurisdiction Bill—Pointed out by the two acts of 1746-7, recited in this Bill.—At the beginning of the session 1747 recommended by his majesty in his speech from the throne, though in general words: promised in the Address* called for more than once in this House Was apprehensive rather of an imputation of neglect in the administration in not bringing it sooner before the parliament.

What has been the complaint of conduct after former rebellions?

Some few punished—

Many more pardoned,—

Estates got back again into the hands of the forfeiting rebellious families, or trustees for them.

Neglect of laying the foundations of future obedience to the king and to the laws.

Tranquillity.

Security.

If you stop where you are, you leave the most material part of the work undone.

Merits of this Bill depend,

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I. On the general principles of it

II. The method taken and the rules prescribed for carrying it into execution.

I. General principles.

1. Necessary to prevent their estates from returning back into the forfeiting families.

2. Necessary for the ends of government, to correct the barbarity, and civilize the highlands.

1. As to the estates returning back—Look back to the rebellion of 1715.

The just and lawful debts must be paid as far as the estates will extend.

If this method not taken, must be sold.

No purchasers for an adequate price.

English will not buy there.

People of that country discouraged—an unpopular thing.

*Obj.* Fictitious claims.

*Ans.* Court of Session.—Appeal to this House.

Possibly some may escape and be allowed.

This one great reason for this Bill.

If that be the case the friends of the forfeiting families may outbid all mankind, and yet not pay near the full value.

2. The other principle to civilize the highlands;—Correct the spirit of barbarity, disorder and rebellion;—To introduce submission to government and law.

Mischief—clanship and dependance on their chiefs.

Right to make a beginning of creating the like dependance on the king their sovereign supreme lord.

Gone a part of the way by taking away the Heretable Jurisdictions.

This will not be complete without teaching them to hold their estates and tenancies from the crown.

Their way of life now is——

In times of peace, theft and depredation.

In times of troubles—rebellion.

Teach them the more civilized arts of life—Industry—Manufactures.

Give them a taste of property—will desire to keep and enjoy it.

Report of the trustees of linen manufacturers.

Lord Lovat's opinion.

II. Rules and methods for carrying this into execution.—Purpose of the Bill, pag. 12, 13.

Settle new inhabitants in part.

This not a temporary measure—Not an expedient for the day—Laying solid foundation for peace and good order for the future.

Such methods as all wise nations have taken, to civilize barbarous parts of their dominions.

Borders before the union of the two crowns.

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* See pp. 96, 98, of the present Volume.

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are the better sort of mechanics, who could find no employment, nor any vent for the produce of their industry, in the highlands of Scotland.

But suppose, my lords, it were possible to get people who understood agriculture and manufactures to go and settle in the highlands of Scotland, how could they be protected from the insults of the natives? For that the old inhabitants would of course be inveterate enemies to these strangers, no man who knows any thing of human nature can doubt; and as it is impossible for troops to march from one part of that country to another in the depth of winter, the new comers would run the utmost risk of being murdered by the natives, unless you keep a body of regular troops at every new settlement; so that for rendering effectual the pretended purposes of this Bill, it would be necessary to keep a numerous army constantly quartered in the highlands; and should you put the nation to this expence, I doubt much if the public, or any persons the public can employ, would pick out, or be at much pains to engage the proper persons for introducing and establishing agriculture and manufactures in that country. We all know the nature of public undertakings: we know how apt they are to be made a job of by those that are employed in the execution; and the project to be established by this Bill looks as like a job, and is, in my opinion, more liable to be made a job of than any public undertaking I ever heard of. You may enact, if you please, that the commissioners to be appointed by this act shall have no salary or reward; and that the lessees under them shall pay no fine or gratuity whatsoever over and above the reserved rent; but it will be impossible to enforce such prohibitory clauses, because it will be impossible to prove any breach, especially in Scotland, where the famous affair of capt. Porteous shewed*, that offenders are more faithful to one another than they generally are in any other country.

The consequence of this, my lords, will certainly be, that these profitable leases will not be granted to such as are best qualified for improving the agriculture or manufactures of the country, but to those who will pay the highest fine or gratuity to the managing commissioner or some agent of his; or, what I dread much more,

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Ireland first conquered in the reign of Hen. 2.—Never totally subdued or civilized till the reign of king James 1.—Near 400 years.

Frequent rebellions—Suppressed by troops.

Arose again.—Why?—because the ancient barbarity remained.

In king James's reign the province of Ulster in part was planted.

This did a great deal.

But the work completed by taking the advantage of two grand rebellions.

That in 1641.

That after the Revolution—Consider what methods the government of England took in relation to that country.

During the Usurpation, Cromwell colonized by settling many of his invalids and veteran soldiers.

This measure was thought so necessary after the Restoration, that king Charles 2, found himself obliged to pursue it.

This necessity was so strong that he established the veterans of Cromwell's army, whom he planted there in the north of Ireland.

But there were great defects—great gaps were left by that act of settlement, &c.

Many of the Popish forfeiting families were restored—

This laid the foundations of the war in Ireland upon the revolution —

The successful end of that rebellion gave a new opportunity:

Rightly made use of.

New proprietors introduced, and new tenants in part.

Not by exterminating all the old ones—Mixing new comers with them—teaching them a better way of life; and accustoming them to industry.

Upon the advantages made of these two great rebellions, all the improvement and tranquillity of Ireland has arisen and been carried on.

Particular objections made (vide Notes of the debate).

Human nature is the same:

The same measures rightly pursued will produce the like effects.

The experiment is worth trying.

Would you grudge to lay out 100,000*l.* to prevent future dangers that may cost millions to repell? Endanger this happy constitution.

How can the one be set in competition with the other?

Can any thing discourage future rebellions so much as this measure?

This precedent once made will convince them, that by every rebellion they will diminish the highland strength.

The hopes and prospect of getting back the estates cut up by the roots.

Annexed to the crown unalienably—there can be no restitution—no fraudulent purchases—No sham collusive inventions will protect them.

* See Howell's State Trials, Vol. 17, p. 923.

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they will be granted to none but the friends, relations, or dependents of the chief commissioners. This, I say, my lords, I dread, because this is what I think renders the Bill of the most dangerous consequence. This is not an age to expect that men will give themselves any trouble without some expectation either of profit or power; and as the commissioners are to have no salaries, as a stranger in the country cannot safely make any profit, we may be assured, that none will accept of being commissioners, or at least, that none will be active, but such as have great estates in the neighbourhood. They will accept, they will be active, because it will add very much to their power in that country, which is already too great. What is the reason assigned for passing this Bill? Is it not because the persons formerly in possession of those estates had so much power, that it was of dangerous consequence to the tranquillity of the kingdom? Can this be a reason for transferring their power to those, who have already great power of their own in that country? 'Tis true, it may be said, that the former possessors were disaffected, whereas those to whom their power is to be transferred are well affected to our present happy establishment. My lords, affection may be pretended, and the most dangerous of all enemies is he who pretends to be a friend: besides, we know that affection is of a very changeable nature: one of these unfortunate noble persons, whose estate is by this Bill to be vested unalienably in the crown, was once deemed to be well affected to our present happy establishment; at least he gave as strong proofs of it as any man could give, and had received great favours from it. No man's affection therefore, even when the most sincere, is to be depended on; and our histories will inform us, that to vest too much power in any one family, is almost an infallible method to render them disaffected to the government then established.

Is it then safe, my lords, for our present government, can it strengthen the foundations of the future tranquillity of this kingdom, to add so much to the power of the great families now subsisting in the highlands of Scotland, as will be added by this Bill, should it pass into a law? It is they, and they alone, that must be the acting commissioners for carrying the law into execution: they may grant many favours by granting leases of those estates for one third less than the yearly value, which are favours that the old proprietors I believe, seldom if ever granted; and if they did, it will make the favours now to be granted of the more value, for the old rental will now be looked on as the real annual value. These commissioners may not only grant greater favours than the old proprietors ever did, but they will have a more extensive power to punish than the old proprietors ever had by law, for they may not only erect prisons and appoint gaolers, but they may commit whomsoever they please to prison by their own sole authority, and the persons so committed, however innocent, must lie a long time in prison before they can be discharged by due course of law, especially in the winter time, when there may perhaps be no passing from the prison to any place where the innocent oppressed prisoner can apply for relief.

Thus, my lords, the inhabitants of all those estates must by fear as well as favour be rendered slavishly submissive to these commissioners, perhaps to one single commissioner, who has found means to usurp the power of all the rest; and what makes me highly suspicious that a job of some kind or other is secretly designed by this Bill, is, that several estates are included in it unnecessarily, even upon the principle of the Bill itself, because they neither lie in the highlands, nor can the inhabitants be said to be disaffected, though the former proprietor was; particularly, one estate of no less than 3,000*l.* a year, most of which lies in or very near the low country; and though many of the tenants of that estate were in the last rebellion, yet it is well known, that most of them were forced into it, and ought to have been particularly distinguished as proper objects of mercy, if due care had been taken to administer justice impartially to those that were concerned in that wicked affair; but from what I have heard, it seems, that neither justice nor mercy was administered upon that occasion in proportion to the merit or demerit of the object, but in proportion to the private interest he could make, or the private resentment he had the misfortune to be exposed to: one man in particular I must take notice of, who, notwithstanding his being then an officer in the service of the government, was very instrumental in getting the Hazard sloop seized at Montrose for the service of the rebels; yet this man, so far from being punished, has since been promoted to a better post in the same ser-

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vice. Another who was very active in forcing the people of the estate I have mentioned into the rebellion, now lives quietly at home, whilst many have suffered for the crime which they were compelled by him to commit.

I could give your lordships an account of several other instances of partiality, which I have been assured are true; but as they are more proper for a particular enquiry, which, I hope they will meet with, than for being thus transiently mentioned in a debate upon another subject, I shall add no more of them, but proceed to consider the utility of this Bill, or the advantages that may reasonably be expected from it; and these, I think, must relate either to the public revenue, or to the improvement of the country and the increase of our trade, or to our future security. As to the public revenue, it is not so much as pretended that it is ever to be increased by the produce of these estates: on the contrary, care seems to be taken, that no part of this produce shall ever be brought to the account of the public revenue; for the whole is to be yearly applied by virtue of sign manuals to the purposes of civilizing the inhabitants upon the said estates, and other parts of the highlands and islands of Scotland, the promoting amongst them the Protestant religion, good government, industry and manufactures, and the principles of duty and loyalty to his majesty, his heirs and successors, and to no other use or purpose whatsoever; and all this, my lords, without any limitation of time, so that the great work of improving this country and reforming the people is to be always doing, but never done; and to this work the whole produce of these estates is for ever to be applied, even though it should come to be ten times what it is at present, and even though mines of gold should be found within the same; for that there may be some sort of mines discovered, seems to be expected, because it is provided, that the commissioners may grant leases of mines or fishings to any value they please, whereas they are not to grant to any one person above 20*l.* a year in land; and this, I must observe, by the by, seems designed to increase the number of their dependents; for when the country comes to be improved, if it ever should, a very small parcel of land may in some parts be let at that rent.

Now, my lords, with regard to the improvement of the country and increase of our trade, this Bill, I am persuaded, will rather prevent than forward it, especially as the commissioners are confined not to grant any lease of lands for above 21 years; for supposing they could get industrious and intelligent farmers of substance to go from England, or from the low country of Scotland, to settle in the highlands, will any man of common sense lay out a great deal of money upon the improvement of an estate, which he can hold but for 21 years? This limitation therefore seems to me to be inconsistent with the whole scope and pretended purpose of the Bill; but in this likewise there seems to be a design in favour of the power of the commissioners, for the shorter the leases are, the more absolute will be their power over the lessees, and this limitation seems designed that no wrong-headed commissioner may think of pursuing the intention of the Bill, by granting leases for any longer term of years. Whatever therefore was the design of some, who were concerned in framing this Bill, I am persuaded, that the improvement of the country and the increase of our trade was not the true and sole design of all; for if it had, the commissioners would have been empowered to let leases of a greater extent of land to one person, and for a much longer term of years, particularly as to building leases; and as to merchants, manufacturers, tradesmen, or farmers, who were not natives of that country, they would have had a power to grant them a lease free from any rent for the first five or seven years; for this has been the method taken in Prussia, and in all countries where foreigners have been invited to settle with any success: nay, in Prussia they not only give them leases rent-free for some time, but they build houses for them, provide them with proper utensils, and support them for the first year at the public expence; and as the government is absolute in that country, it is highly dangerous to attempt making a job of any public undertaking.

But in this country, my lords, where no man can be punished but by due course of law, and after a full proof of his crime to the satisfaction of a jury of neighbours, it is hardly possible to prevent cunning men from making a private job of every public undertaking, therefore we ought to have as few of them as possible; and for this reason I am convinced, that it would tend more to the improvement of that country, and the increase of our trade, to sell those estates at an under-value to

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gentlemen or merchants who are not natives of the country, than to vest them unalienably in the crown; for such gentlemen would not think of increasing their power but their rental; and for this purpose they would take every method that could be thought of, and even be at some expence, to get people, who understood agriculture and manufactures, to come and settle upon the estates they had purchased. They would encourage and protect such of the natives as appeared to be docile and industrious, and they would endeavour to check that idle, lazy, clannish, roving spirit, which has so long prevailed among the common people of that country. But the contrary of all this will, I am afraid, be the constant endeavour of those, who are to be the managers of those estates under the crown.

Now, my lords, with regard to our future security: by this Bill, it is true, we strip those that at present appear to be disaffected of all that power which flowed from their possession of property in that country; but we are to vest the whole, with a considerable addition, in others, who have already too much power, who may in a few years become disaffected, and who may have the cunning, I may say the wisdom, to conceal their disaffection until it be impossible for the government to strip them of their power. I have already shewn, that the acting commissioners under this Bill must be the heads of some of the great families now subsisting in that country: these commissioners have already a great legal as well as a clannish power over the people within their own estates, and to this you are to add a most extensive legal power over the people within the estates which are now to be vested in the crown. Can you imagine, that they will not endeavour to add to this legal power that clannish power, which has always been so prevalent in the highlands of Scotland? Especially, as you are to furnish them with the means for doing so. They will lease out all those estates at two thirds of the value to the people of the clan whose chief they formerly belonged to, on purpose that the lessees may transmit the other third for the support of their exiled chief; by which means not only the people of the clan, but the chief himself, will all become friends and dependants upon the acting commissioners, who are by this Bill to be appointed; and if those commissioners should, upon any future invasion, think fit to declare against the government, they would not only be joined by all their own people, but by all those clans whom they had thus, by the power you gave them, attached to themselves.

From hence, my lords, I think it is plain, that instead of strengthening, you will by this Bill weaken the foundations of our future tranquillity; for all politicians agree, that the security of a government, and the tranquillity of a nation, depend upon dividing the power of the commonwealth into a great many hands, and not upon accumulating too much of it into the hands of any one or a few subjects. If you lodge too much of it in the hands of the government, you render your government absolute; if in the hands of a few subjects, you lay a foundation for continual factions and frequent rebellions.

I hope, my lords, I have now made out what I at first proposed, that the Bill now before us is impracticable, that it is dangerous, and that the utility to be expected from it can never answer the expence. As to the expence, my lords, when I consider that the whole of it is to be paid by the public, and that private men are for ever to reap the whole of the profits, I cannot but look upon this Bill as a most flagrant piece of injustice; for that injustice may be done to the public as well as to a private man, will not, I believe, be denied. What this expence may amount to, I shall not at present pretend to guess; for we are not only to purchase properties but superiorities, and how either is to be valued I do not know: I am afraid, that both will be over-valued by the judicatories in Scotland, especially as the price is to be paid by the public and not by the crown; for the officers of the crown will not think themselves so much bound to take care that the public shall not be imposed on.

This piece of injustice towards the public I think the more extraordinary, my lords, as I cannot see any necessity for vesting those estates in the crown; and if there were, the crown has a fund which I must believe to be sufficient, unless I see very evident proofs to the contrary. The whole of the estates in Scotland forfeited by the late rebellion amount to above 16,000*l.* a year; these, which by this Bill are to be vested in the crown, amount only to about 7,000*l.* a year; why should not the debts upon this 7,000*l.* a year be paid out of the balance, which will come to the crown by the sale of the other 9,000*l.* a

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year? I know that upon all forfeited estates in Scotland there are always claims entered to the full value of the estate, though the forfeiting person was in quiet possession at the time of the forfeiture, but most of those claims are certainly fraudulent, which frauds will, I hope, be discovered, and when they are, I am persuaded, that a very considerable balance will accrue to the crown, over and above the payment of all real and true debts.

What this balance may amount to, my lords, cannot soon be determined; but if it be necessary to vest any of those forfeited estates in the crown, I think, we should delay putting the public to any expence upon that account, until we see what this balance may amount to; for I am persuaded, his majesty will readily agree to apply that balance towards paying off the debts upon those estates, which are to be entailed upon him and his successors; and if that balance should at last appear to be trifling, I think it will be a strong reason for giving up this project for improving the highlands or any other part of Scotland, as by far the greatest share of the expence must be paid by England; for Scotland pays but a 42nd part of the land-tax, and but very little towards the malt, which are the only two taxes we now have for supplying the current service; and even as to several of the taxes which have been mortgaged for the payment of our debts, ways and means have been found to keep Scotland entirely free from them. For example, they have yet paid nothing in that country towards the window tax, and as to the tax upon coaches, there is something very mysterious with regard to Scotland. The first year of that tax it produced in Scotland just the round sum of 1,000*l.* The second year it produced just double the sum; the third year it produced just double the sum; but the fourth year it produced nothing at all; and yet I do not hear, that all the quality in Scotland have laid down their equipages rather than continue paying this tax.

These things I mention, my lords, for the sake of common justice, and not out of any disregard I have for the people of Scotland, for I think they deserve to be as well treated as any other of his majesty's subjects. I shall even be for giving them some ease in cases where the circumstances of the country necessarily require it; but I must observe, that if every rebellion should carry as much money from England to Scotland as this last has done, and is likely to do, however much particular men might suffer, it would be the interest of the country in general to have frequent rebellions: for besides the money sent thither for maintaining our troops during the time of the rebellion, we have since sent two large sums to that country, occasioned, I may say, by the rebellion; that is to say, 10,000*l.* to the city of Glasgow, for making good the damage done them by the rebels: and 152,000*l.* for purchasing the heretable jurisdictions in Scotland; and if this Bill be agreed to, we must send a larger sum than both these put together, upon what I think a chimerical and impracticable project, which is that of planting industry, religion, and loyalty among the people of the highlands of Scotland, by trustees appointed by the crown for that purpose. This may be done in a course of years by the nobility and gentlemen who have landed estates in that country, if they would unite together for the purpose, as they have lately done in Ireland, without any expence to the public; but it is chimerical in the public to undertake it, or to put itself to any expence upon that head; and as this laudable undertaking has been set on foot and promoted in Ireland chiefly by the gentlemen of England, or the low country of Scotland, who had purchased, or succeeded to their ancestors, who had purchased forfeited estates there at a small price, it confirms what I have said before, that the best way for improving the islands and reforming the people, would be to sell these forfeited estates at any price to gentlemen of England, or the low country of Scotland, whose interest would be to root out that clannish spirit which prevails in the highlands, and to propagate a spirit of industry among the people; whereas if you sell these estates, or give the management of them, to the chiefs of other clans, the same clannish spirit will be preferred to any other, and those chiefs who are now your favourites, may in a few years become more dangerous enemies than the former.

These, my lords, are my reasons for being against the Bill; and if they are not sufficient for convincing your lordships, I hope they will at least be sufficient for excusing my giving a negative to the question.

Lord Chancellor *Hardwicke:*

My lords; from the several acts

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that have been passed your lordships will see, that ever since the last rebellion we have had two ends in view: one to prevent any future rebellion, and the other to improve the highlands and islands of Scotland, by introducing and propagating manufacture, agriculture and fisheries. Now it is certain, and even the noble duke himself seems to agree, that neither of these ends can be answered, if the disaffected chiefs should again get possession of their estates in that country; for, as they have done before, they will think of nothing but cultivating a clannish spirit, and breeding their people up to arms, in order to raise a new rebellion against the government, as soon as a favourable opportunity offers. We must therefore by all means prevent its being in their power ever again to get possession of their land estates; but this it is impossible to prevent, if you allow those estates to be sold to the highest bidder; for there is not one of these estates on which there are not claims entered far exceeding the value of the estate, were it even to be sold at as high a price as any lands can be sold in that country; and though it cannot by any means be proved, yet it is certain, that most of these claims are fraudulent, and made by trustees for the use of the forfeiting person. The claims are in appearance so fair, and so well established, that they must be by law allowed, and being allowed, the claimants may then outbid any fair purchaser that can be expected. By this means the claimants must get into possession; and as their claims are all in trust for the forfeiting person, their possession will in effect, though not in appearance, be his possession. The tenants of the estate will still look upon him as their master, he will have the whole management, and the whole of the profits will come to his use.

To state this matter in a clear light, my lords, let us suppose, that one of these estates, not worth above 10,000*l.* at the most, has incontestable claims entered upon it to the amount of 15 or 20,000*l.*; and that of these claims 14 or 18,000*l.* are fraudulent and in trust for the forfeiting person. If this estate were to be sold by public sale, some person in trust for him might bid 15 or 20,000*l.* for it; because when he had done so, he would really have but 1 or 2,000*l.* to pay; but if any stranger should bid up to that sum, he must pay the whole money, because all the fraudulent claimants would insist upon having their money from him. Therefore it is certain, that for such an estate no private man can or will outbid the trustee for the forfeiting person, and it would be ridiculous in the government to attempt it; because it would amount to an infinite sum of money, and would put the forfeiting person in more affluent circumstances than ever he was before his rebellion; for all those fraudulent claimants would pay the money over to him as soon as they had received it, and it would be lodged somewhere abroad for the benefit of him and his family.

The noble duke, I find, my lords, is so sanguine as to hope, that all these fraudulent claims may be detected, but from experience I am induced to entertain no such hopes; and the noble duke himself gave us a good reason for not entertaining any such. The people of that country are so faithful to one another, in every case where they think their honour concerned, that no reward can tempt them, no terror can frighten them to betray their trust: they will take any oath you can frame, rather than discover what they think their honour obliges them to conceal; and this fidelity reaches even to the very lowest of the people, as was apparent in the case of Porteous, mentioned by the noble duke. How, then, can we expect, that trusts will be discovered where none but gentlemen are concerned?

Thus, my lords, as it is impossible to distinguish between claims or debts that are fraudulent, and those that are real, and as the justice of our government requires that all lawful creditors should be satisfied, as far as the true value of the estate will go, in every case where the incontestable claims amount to more than the true value, the government must make good that value to the creditors, or the estate must be put up to public sale, and sold to the highest bidder, without exception, if he be a person capable by our laws to purchase. If you make no exception, the highest bidder will certainly be some trustee for the forfeiting person or family; and if by a new law you should make any exception, the creditors will exclaim, that you have not done them justice, because by making such an exception, you prevented the estate being sold at its full value. For example, my lords, suppose you should by a new law order these highland estates to be sold to the highest bidder at a public sale, but that no man born, or



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who was descended of any family in that country, should be a purchaser, do you think, that the forfeiting person could not find a trustee in the low country of Scotland, or perhaps in England or Ireland, to purchase the estate for his benefit? And such trustee would certainly, for the reason I have assigned, be the highest bidder; and if no such trustee could be found, or did appear as a bidder, I am persuaded, the estate could not, with such an exception, be sold for a fourth part of its value; consequently the creditors would lose three-fourths of their debts, and this they would impute to the exception you had made by your new law, which would raise a general outcry against the government.

We know, my lords, how shy people are to purchase forfeited estates, especially in the highlands of Scotland: we know how difficult it was to find purchasers for the estates forfeited by the rebellion in 1715. I very much doubt, whether we could then have found purchasers at any price for the estates forfeited in Scotland, if a company here in England, merely from a humour of stockjobbing, had not presented themselves as purchasers; and the fate of that company will not be an encouragement to any other company to engage in such an undertaking; for no company can pretend to improve an estate by agriculture; and as companies, like rich young heirs, and perhaps some of riper years, are generally cheated by their stewards, it can never be worth the while of any company to purchase estates at near the full value, nor will any company ever do so, if they have no other view than merely that of reaping the annual profits. I therefore am of opinion, that it is in vain to think of finding any purchasers for these highland estates, but such as are trustees for the forfeiting persons; and I am persuaded, the noble duke would not be for admitting any purchasers who may be suspected of being so. But as the claims upon every one of these estates far exceed the true value, they must in a short time be sold to the highest bidder, that is to say, to the trustee for the forfeiting person, or the public must resolve to take them at the highest price that can reasonably be put upon them. So far, then, the Bill is necessary, in order to give satisfaction to the creditors, and at the same time prevent the estates falling again into the hands of those who never have, nor ever will make use of them but for disturbing the tranquillity of their country.

As to the other parts of this Bill, my lords, I mean the management which these estates are to be put under, and the uses to which the rents and profits of them are to be applied, I wish the noble duke had been pleased to give us a better scheme; for at present I am of opinion, that the scheme of this Bill is the best that could be contrived. His majesty may by the Bill name as many commissioners as he pleases, and though he is not to grant salaries, he may grant favours to such as appear to be active and diligent in the execution of the trust he reposes in them; therefore I am far from thinking that none but such as have large estates in the neighbouring highlands will accept and act as commissioners: I hope some of the lords of this country will, and I am persuaded, several of the nobility and gentlemen of the low country of Scotland will be fond of the commission, and for their own sakes will be active in civilizing a people, who were formerly so apt to make inroads and commit depredations upon their estates in the low country.

Then as to strangers, my lords, who may be prevailed on to go and settle in the highlands, it is not supposed, I hope, that we are to banish, transport, or exterminate all the natives, or that the country is quite waste and destitute of inhabitants; we are only to get a few intelligent and industrious farmers and masters of manufacture, with some servants and journeymen, and a few who understand fishing and curing of fish, to go and settle there, in order to serve as examples to the people of the country, and to instruct and employ such of them as may incline to be industrious, which I am persuaded will be the greatest part, as soon as they are made sensible of the plenty and independency that attend industry. As to farmers, I am persuaded, that many from the low country of Scotland, and some perhaps from England, will be induced by the cheapness of the leases to go and settle there; and as to manufacturers, tradesmen, and fishermen, they will be induced to go and settle there by the cheapness of provisions, and the plenty of business which they must have in a country, where there are none or but very few of the same trade. Therefore I am convinced, that as many as are wanted may be got as soon as it is known that they will be protected and encouraged by the commissioners; and no one of the commissioners can refuse his protection and encouragement, because the other commis-

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sioners would soon be informed of it, and would get him removed, which the crown will by this Bill have a power to do, whenever it pleases. I shall indeed grant, that it may at first be necessary to lay out some money for building houses for such strangers, as may be willing to come and settle there: for this purpose the commissioners will have a fund of about 4,000*l.* yearly, by which means several villages may soon be erected, where a few companies of soldiers may be quartered, which for want of such accommodation cannot be done at present; and this, with the countenance of such of the commissioners as have estates in that country, will be sufficient for protecting the new settlers against any insult that may be offered by the natives.

I cannot therefore, my lords, comprehend why there should be any difficulty in introducing industrious strangers into the highlands: and the introduction of such is certainly the most effectual method for giving a turn to the spirit of the natives, both with respect to industry and loyalty. It was this that gave the first turn to the spirit of the people in Ireland; for that country was in almost a continued course of rebellion from the time it was conquered by our brave king Henry 2, to the reign of James 1. In his reign a number of industrious strangers both from England and Scotland were introduced into Ireland; and when the rebellion of 1641 was extinguished by Oliver Cromwell, he gave the lands of many of the rebels to his victorious soldiers, who were left in possession for some time after the Restoration, as the rebels had no merit to plead with Charles 2, because they had first rebelled against his father; but as most of them were Roman Catholics, the duke of York, afterwards king James 2, had interest enough to get an act passed in Ireland, called an act of explanations, by which many of the old proprietors were restored to their estates; and the consequence was, that most of them joined in the rebellion raised in Ireland at the time of the Revolution, which gave an opportunity for introducing more industrious strangers from England and Scotland, into Ireland, and laid the foundation for that spirit of industry and improvement, now so prevalent among the people of that island.

In the highlands of Scotland, my lords, it will be the same, if you can but introduce a few industrious strangers among them, to give the natives a taste of that happiness which attends industry; and the land-holders in that country who are friends to our present establishment, are ready to join in every method for improving the country and rendering the people industrious; because, as they have no view of ever rebelling against the government, they chuse rather to have their rental increased by a rich and laborious people, than to be followed into a rebellion by a number of idle and desperate beggars. But if you allow the disaffected chiefs to recover possession of their estates, they will continue to have quite contrary views, and consequently will endeavour to defeat every method you can take for improving the country and civilizing the people; for one of them, lord Lovat, said to two gentlemen who visited him a few days before his death, that they ought to be against the Jurisdiction Bill, because the increase of their estates by that Bill would not give them such an interest at court as the power did which they were thereby to be deprived of.

This, my lords, was his way of thinking, and it always was the way of thinking among those who affected military power rather than riches. Before the union of the crowns the borders of Scotland were as bad, or rather worse than the highlands are now: the chiefs thought of nothing but their military power, and the people were idle and poor, and always ready at their desire to rebel against the government of Scotland, or to commit depredations on England. But that union introduced industry and riches among them, and this put an end to their rebellious, rapacious spirit; for an industrious, rich people will never be ready to take arms against the government of their country, as was evident in the last rebellion, with regard to the people of the estate mentioned by the noble duke: most of them, it is true, were forced into the rebellion; and for this very reason it was necessary to include that estate in this Bill, in order to prevent the people from being again exposed to the like misfortune.

From what I have said, my lords, I hope it will appear, that the purposes intended by this Bill are far from being impracticable: nay, I believe, it will appear, that there is no other way of keeping these estates out of the hands of the disaffected chiefs, and consequently that the improvement of the highlands and the civilizing the people are not practicable in any other way; and as to the danger of what is pro-

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posed by this Bill, I am surprised to hear any such thing apprehended. The power of these disaffected chiefs is not to be transferred to any other chiefs: it is to be wholly lodged in the crown: the commissioners must in every thing act in the name of the crown, and are to be removeable at the pleasure of the crown. Can it, under these circumstances, be supposed possible for any one of these commissioners to usurp the power of all the rest? Can it be supposed that any future administration will be so negligent and unwise as to admit of any such attempt, since it will always be in their power to defeat such a design, by removing such a commissioner?

Then, my lords, as to the public utility to be expected from this Bill, when I consider the frequent and great dangers we have since the Revolution been exposed to from the highlands of Scotland: when I consider what a vast tract of country lies there uncultivated: when I consider the rich mines of lead that may probably be discovered in those mountains: and when I consider the beneficial fisheries that may be established upon the western coast and islands of Scotland, and the addition that may thereby be made to our naval power, I am astonished to hear it suggested, that the utility to be expected is not worth the expence. Private men will, it is true, reap an advantage from the improvements proposed; but even this will be an advantage to the public, and the other advantages to be reaped by the public will certainly far exceed in value the small sum that is to be paid for the purchase of those estates. And as to the objections made against the restraints laid upon the commissioners with regard to leases, if they should be found inconvenient, they may be altered; for this law is not designed to be like the laws of the Medes and Persians, never to be altered or amended. It is impossible to foresee all the inconveniences that may happen, or all the regulations that may be found necessary; but the general scope of the Bill is right, and indeed absolutely necessary for our future security; and whatever new regulations may hereafter be found requisite, I hope they will be taken care of.

As to the share paid by Scotland towards the land tax, it is what they agreed to pay, and we agreed to accept of, at the time of the Union; and as to every other tax which it is possible to collect in that country, I believe, they pay above that proportion; but I wish, my lords, that all such comparisons were let alone; for if we were to compare what is paid to the public by the county of Middlesex, including London, with what is paid by any other county in England, I believe, the difference would be found very considerable; yet the county of Middlesex is not from thence to claim any superior care either from the government or legislature; because it is by means of the other counties that it is enabled to pay more than its share. And as to what the noble duke was pleased to observe about the collection of taxes, or the administration of justice in Scotland, if an enquiry should be set on foot, I believe, it would be easy to answer every objection. All I shall say at present is, that a tax may be practicable in one part of the country, and yet not in another, because the expence of the collection would exceed the produce of the tax. And whatever tales may be told here, the officers of justice in Scotland cannot punish a man until he is proved guilty, nor can they banish a man for an offence that has been pardoned by his majesty's most gracious indemnity. But as none of these things have any relation to the present question, I shall give your lordships no further trouble; as I have already answered every material objection I have heard against the Bill, and, I hope, shewn, not only that it is absolutely necessary, but that in all appearance it will be highly advantageous to the public.

The Earl of *Bath*:

My lords; the Bill now before us is a fresh instance of a misfortune your lordships are every year exposed to, which is that of having Bills of great consequence brought up here so late in the session, that you have not time to consider them so maturely as you ought. The ends which the noble and learned lord says this Bill is intended to answer must shew, that it is a Bill of the utmost importance; and were I convinced of its being proper for answering those ends, I should make no scruple of giving my consent to its being passed into a law; but this I neither am, nor can have time to be convinced of, during the few days that this session is, in all probability, to continue; for as I am a stranger to, and quite unacquainted with the circumstances of the country to which this Bill relates, I must think, that before I consent to its being passed, it is my duty to advise with some gentlemen who are

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acquainted with the circumstances of that country, and who can have no particular interest in getting such a new and such an extraordinary regulation established.

There are several facts, my lords, which we ought to be informed of before we agree to such a Bill as this: we ought to know the real value of the estates which are thus to be purchased by the public, and we ought to know not only the extent of the claims, but the nature of every claim that has been entered upon them. I believe, no man ever yet set about purchasing an estate before making all possible inquiry as to the real value; whereas we cannot so much as pretend to have any certain knowledge of the real value of those estates, which we are by this Bill to load the public with the purchase of. It is true, we have before us some sort of account of the value, but it is an account that has been made *ex parte:* the creditors, who in this case may be called the venders, had no opportunity to prove the real value of what they are to be compelled to sell to the crown; therefore, when those estates come to be valued in a more solemn manner, and the creditors allowed to bring proper proofs, the estates may appear to be above twice the value of that they have been computed at by the officers of the crown; and if this should be the case, I think it would be loading the public with a greater sum than it is able to bear in our present distressed circumstances, and a greater sum than ought to be applied towards even those two salutary ends, of improving the highlands of Scotland and preventing any future rebellion; because we are very uncertain whether it will have the desired effect as to the improvement of the highlands; and as to any future rebellion, as the two last rebellions from that quarter both ended in the destruction of those that were concerned, we have very little reason to apprehend a third from the same quarter.

What methods were taken, my lords, by the officers of the crown, for putting a value upon the forfeited estates in Scotland, I do not know; but from the claims that have been entered upon them it is evident, that they have either been monstrously undervalued, or that most of the claims are fraudulent; for when an estate appears by the claims to have been mortgaged for twice or thrice its value, we must conclude either the one or the other, especially in Scotland, where registers have been so long established, and so regularly kept, that it is hardly possible for a mortgagee to be imposed on. Yet from the papers upon our table this appears to be the case with respect to many of the forfeited estates in Scotland; and one in particular I could not help taking notice of, for it is valued but at 30*l.* a year, and the claims already entered upon it amount to 4,000*l.* How it is possible to cook up so many fraudulent claims upon forfeited estates in Scotland, or to find men who will act as trustees for a forfeiting family, I cannot comprehend; for, in my opinion, it is a very dangerous undertaking. If it be not directly high treason, it is very near akin to it; for though it be not in law, it is in fact a giving of aid and comfort to the king's enemies; therefore I think, that the covering or concealing any estate in land or money that belongs to a traitor, ought at least to be subjected to a fine of two or three times the value of the estate so concealed; and a law for this puspose ought to be passed before we agree to any such Bill as this now before us.

I mention this, my lords, not only for the sake of the crown, but for the sake of the real and just creditors upon the forfeited estates, and in particular for the sake of those who are real and just claimants upon those estates, which by this Bill are to be vested in the crown, and purchased by the public; for if I have been rightly informed, those claims that are suspected of being fraudulent are such as are by law preferable to all other debts, and must be fully satisfied and paid, before any real and just creditor can have a shilling out of the purchase money of the estate. If the fraudulent claimants should be admitted as the purchasers, by being the highest bidders at the sale, and the forfeiting family by that means get again the possession of the estate, they would probably think themselves obliged in honour, though not in law, to pay their just debts; but if they should be for ever excluded from getting again into the possession of their estate, as many of them are to be by this Bill, the whole of the purchase money paid by the public will be applied by their trustees, the fraudulent claimants, to their use, and none of them will think themselves bound in honour, or conscience, to pay a shilling of their just debts: nay, they will purposely refuse paying, because the whole loss will be laid by their creditors to the account of the government.

Thus, my lords, there are two consequences from this Bill both evident and

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certain, and both ought by all means to be avoided. One is, that none of the real and just claimants upon those estates that are to be purchased by the public, will ever receive a shilling; and the other is, that the forfeiting family will be in a better condition than they could have been, had they not rebelled against the government of their country. To render what I say more clear, allow me, my lords, to make use of figures: suppose one of those highland estates to be worth 10,000*l.* with 5,000*l.* real debt upon it, and 10,000*l.* fraudulent but preferable claims. If the family had never rebelled, this 5,000*l.* real debt must have remained a charge upon their estate until fairly paid off and discharged, and one half at least of their yearly income must have gone towards paying the interest; but by their rebellion, and by being for ever excluded from the land estate they formerly possessed, their trustees, the fraudulent claimants, that is to say, the forfeiting family, come to the possession of 10,000*l.* in money without one shilling charge upon it, and their real creditors lose every shilling of what was due to them.

Both these consequences, I say, my lords, are evident and certain; but that you will by dispossessing a highland chief of his land estate, dispossess him of the influence he has over his clan, is far from being evident or certain. On the contrary, if we judge from experience, we must conclude, that his influence will not be thereby in the least diminished; for there is now one of the highland chiefs, who has always appeared to have a great influence over those of his clan, though he has not for many years been in possession of any land estate; and we all know what an influence the late lord Lovat had upon his clan in the year 1715, though he had then no land estate, nor had ever been in possession of the estate of the family. In short, my lords, a clannish influence is something like enthusiasm in religion: by gentle usage, it will of itself decay, but persecution is its nourishment, from whence it gathers strength daily, and becomes proof at last against the most cruel tortures.

I may therefore, my lords, with some reason conclude, that if there were any danger of a new rebellion from the highlands of Scotland, this Bill would rather increase than diminish the danger; and as to the improvement of that country, I can never think, that the vesting of any part of it in the crown unalienably, will tend to the improvement of it; for private men always take better care of their estates, and are more industrious in improving them, than the managers for the crown ever were, or can be supposed to be. The wide extended empire of Turkey is a melancholy instance of the bad policy of vesting the lands of any country in the hands of the crown; and it is well known, that the great improvement of all our lands in England has arisen from their being made alienable, and in consequence thereof divided amongst a vast number of private men, every one of whom took all possible care to improve that part which properly belonged to him, and which with its improvement he had a power to transmit to his posterity, or to such other persons as he pleased to name. That the best way to improve the lands of any country, is to divide and vest the property of them into as many hands as possible, is a proposition so plain from reason, and so well vouched by the histories of all countries, that the very title of this Bill, in my opinion, implies a contradiction. The yearly profits of those estates so vested in the crown, may, perhaps, be of some service towards improving the estates of some of the commissioners; but that they will ever be applied towards improving the crown lands, I very much question. And as has been already observed, the lessees under the crown are to have such short terms, that none of them will ever be at any great pains or expence in improving his leasehold estate. Therefore, if the Bill should pass in the same form it is at present, I hope an amendment will be made to the title, by saying, "for the better civilizing and improving the rest of the highlands of Scotland;" but as it is a Bill of such importance, I rather hope, that your lordships will put it off until next session, that we may have time to consider it maturely, and have the thoughts of the gentlemen of that country upon the subject; for from the manner in which it has been brought in, and passed through the other House, I suspect, that the patrons of it are conscious of its being a Bill very disagreeable to most of the gentlemen of the country to which it relates.

I know, my lords, that it is a little irregular to take notice, in a debate here, of any thing that has passed in the other House; yet I cannot help observing, that this Bill was not so much as once mentioned in the other House until the 17th

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of last month, when a motion was made for leave to bring in a Bill under the title it now bears, from which title no one could guess what lands were to be thus unalienably annexed to the crown: the Bill itself was not brought in until the 24th, when a motion was made for its being printed; but that motion was, for what reason I cannot comprehend, rejected; therefore if this Bill should pass through this House, I must suppose, that it will be passed into a law, before the gentlemen residing in the country where those estates lie can have heard that any such law was ever intended. What could be the reason for all this hurry? What could be the reason for all this secrecy? My lords, the reason is very plain: a part of Scotland is to be in some degree subjected to a Turkish sort of government: the inhabitants are to have no property in the lands they possess, nor any representative in the national assemblies of their country; and they are in the first instance, at least, to be under the jurisdiction of a bashaw appointed by, and removeable at the pleasure of the crown. It is, 'tis true, but a small part of the country that is now to be brought into this terrible situation; but small as it is, it will be a precedent that may be of the most fatal consequence, therefore it is a precedent that no gentleman in Scotland can like, nor should any gentleman in England approve of it.

My lords, I believe no one that hears me will doubt my being sincerely inclined to prevent any future rebellion, and I shall always be for improving every part of the British dominions as much as possible; but I cannot approve of the scheme proposed to be established by this Bill. It is true, I cannot at present propose a better; but something better may be contrived before next session, and there can be no harm in putting off the settlement of this affair till then. There is no absolute necessity for exposing any of the forfeited estates in Scotland to sale before next session; therefore, why may we not postpone the passing of this Bill, till that time, when, I hope, some of the other grievances now complained of will be enquired into? For as to the window tax, let the expence of levying it be what it will, it ought to be levied in Scotland as well as England: the words of the act by which it was imposed are express, that it shall be levied within and throughout the whole kingdom of Great Britain; and therefore to neglect levying it in Scotland upon any pretence whatsoever, is assuming a sort of dispensing power: a power so inconsistent with our constitution, that even kings have been dethroned for pretending to it: if our ministers were not by law armed with sufficient power for levying it in Scotland, they ought to have applied to parliament for new powers: if the expence of collecting it in Scotland amounted to more than the produce of the tax, they ought to have applied to parliament for instructions how to behave. Whatever was the case, they ought not to have pretended to dispense with such an express law, and to leave Scotland free from a tax, which is to the utmost farthing collected in England. Besides its being an encroachment upon our constitution, it may be attended with the most dangerous consequence. What will the people of England say, should they hear that the people of Scotland are indulged by our ministers with a freedom from taxes, which are exacted from them with the greatest rigour? Such partiality may revive the ancient jealousy, the ancient animosity, between the two nations; of which there is still but too much remaining: for if a gentleman of Scotland gets any preferment here, let his merit or his capacity be never so conspicuous, the people presently exclaim, Ay! none but Scotchmen can get any thing in this country: in Scotland it is the same: if a gentleman of England gets any place there, or if an old English officer gets the government of any of the fortresses in that country, the people presently complain, that none but Englishmen can get any place among them. I wish these national prejudices were utterly extinguished: we ought to live like brothers; for we have been long under the same sovereign, and are now firmly united not only into one kingdom, but into one and the same general interest; therefore the question ought never to be, who are English, or who are Scots, but who are most capable, and most diligent in the service of their king and country.

The Duke of *Newcastle*:

My lords; by the very nature of our constitution it must happen, that some important Bills must every year come up to this House towards the close of the session. This is a misfortune, which it is impossible to remedy or prevent; but it is one we had never less reason to complain of than with respect to the Bill now before us, because it is a Bill which is not in

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itself of any very great importance, nor has it come up so late as not to give us sufficient time to consider it with as much deliberation as it can require. I shall indeed grant, that if the rule were established, which the noble lord who spoke last against the Bill seemed to prescribe, we could never pass any public Bill the same session it was brought in: for should it be admitted to be our duty, to advise with gentlemen in the country, before we give our consent to any new law, our sessions must be much longer than they usually are, or it would be impossible for us in most cases to procure that advice before the end of the session. But, my lords, the very nature of our constitution has rendered the establishment of such a rule unnecessary; for we have noble lords in this House, and gentlemen in the other, from all parts of the united kingdom, who must certainly know the circumstances of the respective countries they come from, and are capable of communicating that knowledge to every other member of the assembly they belong to; therefore it very rarely happens, that any communication with the gentlemen in the country is in the least necessary, especially as a new regulation ought to be agreed to, if it be for the general interest of the nation, though it may, perhaps, be contrary to the interest or inclinations of one or two particular counties.

Now, my lords, with respect to the Bill under consideration, I believe, indeed, that very few of your lordships are much acquainted with the country to which it relates: I am sure, I am as little as any, and yet I think myself at full liberty to give my consent to the passing of this Bill, without any communication with the gentlemen who are residing in that country; because most of the chief men of that country, either for family or estate, are members of this or the other House of Parliament. From them, and from the papers upon our table, I have had information, and every one of your lordships may have information, as to all the facts that can be necessary for our determination with respect to the Bill now before us. From that information, and my own reason, I am convinced, that the Bill is for the interest of the nation in general. Your lordships see, that all those of that country, who have seats in either House of Parliament, are strenuous for the Bill being passed into a law: from them you may learn, that it will be agreeable to every man in the country, who is not in his heart an enemy to our present happy establishment; and their being against the Bill will, I am persuaded, be a strong argument with every lord in this House to be for it. As to the value of the estates that are thus to be purchased by the public, your lordships have upon your table the exact value of every forfeited estate, according to the best survey and strictest enquiry that could be made by officers appointed for the purpose by the barons of the Exchequer in Scotland; and those officers were not under the least temptation to return any estate of a less value than it really was. Besides, the noblemen and gentlemen of the country, who have estates in the neighbourhood, can inform you, that the value returned by those officers is generally much about what the estate was before valued at according to the common report of the country. Then as to the extent and nature of the claims, I cannot see what we have to do with either; because, let the claims amount to what they will, the government is to pay only an adequate price, according to the true annual income, and the common rate of purchase in that country; and whether the claims reputed, though not proved fraudulent, be preferable to the real, is what we have at present nothing to do with. If it should be thought necessary, according to the noble lord's advice, to make a new law for the detection and punishment of such frauds, I shall most readily agree to it, provided I think, that the new law proposed will be effectual for discovering the guilty, and of no dangerous consequence to the innocent. But without any such law, I believe, the fraudulent claimants, and the forfeiting persons for whom they are trustees, will think it their interest to satisfy all the just creditors as far, or near as far as the purchase money received from the public will extend to pay, because those creditors may very probably have it in their power to make a discovery of the fraud; and as it is not doubted but that many of the claims are fraudulent, their amounting to twice or thrice the value of the estate can be no proof of the estate being under-valued, nay, could be no such proof, were they all fair and honest; for in this country have we not every day bankrupts, who are not able to pay above five or six shillings in the pound? And that many of the rebels were bankrupts, will not be questioned.



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I can therefore, my lords, see no reason for our postponing this Bill; but if your lordships will look back to an act of the 20th of his majesty, you will see a most solid reason for convincing you of the necessity of passing this Bill before the end of this session. The act I mean, is the 'Act for vesting in his majesty the estates of certain traitors;' for by a clause in that act, if his majesty does not make effectual provision for the payment of all debts and claims upon any of those estates, within twelve months after their being adjudged, the barons of the Exchequer in Scotland are expressly directed to cause such estate to be sold, or so much thereof as will fully satisfy the debts and claims adjudged. Now as the debts and claims upon those highland estates, or upon some of them at least, are already adjudged, and have been so for some time; and as those claims amount to much more than the value of the estate, the barons of the Exchequer in Scotland must cause it to be sold before the next session. What, then, will be the consequence? As some, if not most of those claims, are in trust for the forfeiting person, some trustee of his will certainly be the purchaser; and thus he will again get into the possession of his estate, and of all the influence he had before upon the people inhabiting the same.

From hence your lordships must see, that unless you are resolved, that those disaffected rebellious chiefs, who have already given us such disturbance, should recover possession of their estates, and be thereby enabled to raise a fresh disturbance, which I am persuaded they will do the very first opportunity, you must necessarily pass this Bill before the end of this session, whether you think it will have the desired effect or no; and this leads me to consider what the effect of the Bill, as it now stands, will probably be. In the first place, you must allow, that it will effectually prevent the disaffected chiefs who are attainted for being in the last rebellion, from ever getting again into the possession of their land estates in that country. This is one effect which must be allowed to be in so far a good one; but it is said, that this effect will not be attended with any beneficial consequence, because those chiefs, by means of fraudulent claims, and thereby getting free from their real debts, will be left in more opulent circumstances than they were before the rebellion; and because their influence upon the people of their clan does not depend upon their being in possession of any land estate whatsoever, but upon a sort of enthusiastical principle, which, the more you persecute, will grow the stronger and the more obstinate.

Now, my lords, let us consider, that this is either no argument against the Bill, or it is an argument that will carry us a great deal too far; for from hence it must be concluded, that we must never punish these highland chiefs, let them be never so often guilty of treason and rebellion. But this would be such an extravagant conclusion, that the premisses must be wrong; and first as to their being left in more opulent circumstances, the fact can never, in my opinion, be true; because if the fraudulent claims be preferable to all others, they must be such as before the rebellion were founded upon some matter of record, such as a judgment, mortgage, or the like. This could not but be known before the rebellion; and can we suppose, that a man who had such a public claim standing out against him, could have any credit, unless he got the person entitled to that judgment or mortgage to join with him in the security? And every just and real creditor who has got such a security, must recover his money, though the judgment or mortgage should be allowed as the most preferable claim. It cannot therefore be supposed, that the case which was put by the noble lord can ever possibly exist; for if there were 5,000*l.* real and just claims, and a preferable but fraudulent claim of 10,000*l.* upon an estate not worth above 10,000*l.* we must suppose, that the real and just claimants have some sort of security from the fraudulent claimant, though they may not, perhaps, at present think fit to let it appear, but would make use of it, if the fraudulent claimant should possess himself of the estate, or of the price paid for it by the public, and refuse to pay them their money. Consequently we cannot suppose, that any forfeiting family can by this Bill be put into more opulent circumstances than they were before the rebellion. But supposing it to be so, yet there would be an advantage in divesting a disaffected family, of their ancient paternal estate; for though a man may have a greater yearly revenue from 10,000*l.* in money, than he can have from a land estate of 10,000*l.* value, with 5,000*l.* debt upon it, yet he cannot have so much power; and supposing he should with his 10,000*l.* purchase another estate at a distance from the ancient seat of his family, he could not



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have so much power over the tenants of his new estate, as he had over those of his old, and would again have, should he be restored to the possession of it.

Thus your lordships may see, that this Bill will be attended with beneficial consequences, even supposing that the forfeiting family should thereby be put into more opulent circumstances than they were before the rebellion, which, however, I have shewn to be hardly possible; and with regard to that enthusiastical clannish spirit, which, I shall admit, has still of itself a great influence upon the people in the highlands of Scotland, must it not be granted, my lords, that when self interest co-operates with this clannish spirit, it will have a greater influence than when self-interest operates against it? When the chief of a clan is in possession of a land estate, and that estate inhabited mostly by those of his clan, they are induced by self-interest, as well as by this clannish spirit, to be subservient to him, and obedient to his commands: he may, as their landlord, grant many favours and indulgences to those that please him; and if any one disobliges him, he may either turn him out of the little farm he holds, or he may make him very uneasy in the enjoyment of it, for which very purpose, he will take care never to grant any lease for above a year or two, or three at most; and instead of propagating among his people a spirit of industry, he will make use of all the favours and indulgences he can grant, for propagating among them a warlike and rapacious spirit.

On the other hand, my lords, if the disaffected chief be turned out of the possession of his estate, and the estate vested in the crown, and leased out to those of the clan upon long terms and at an undervalue, every such lessee's self-interest will operate directly against his clannish spirit. Instead of following their chief into any future rebellion, the cheapness and the certainty of their leases will induce all, and probably prevail with most of them, to assist the government in opposing his return; and a spirit of industry and improvement will be propagated among them, not only by the certainty of holding their estates for a long term of years, but by all the methods that can be contrived by the managers under the crown; which leads me to consider the effect of this Bill with regard to the improvement of the highlands. Upon this head, my lords, I was really surprised to hear a noble lord talk of a part of the country being to be put under a sort of Turkish government: he may as well say, that all the farmers in England are under a sort of Turkish government; for none of them can acquire the fee of the farms they possess, unless their landlord be inclined to sell; and they are all in some degree subject to the courts of their respective manors, yet they are no way subject to arbitrary power, nor can it be said that they have no property in the lands they possess; for a copyhold, or even a leasehold, is a property in the land as much as a freehold, and most of the improvements in England have been made by copyholders, or by leaseholders for long terms, or for two or three lives, which is generally reckoned but equal to a lease for 21 years: we all know, that very few of our landed gentlemen ever employed themselves in manuring or improving their own estates; but by letting long leases, or selling leases for lives to farmers, they encouraged those farmers to improve the estates so leased out to them; and I can see no reason why the same cause should not produce the same effect in the highlands of Scotland; for though the lands there are not so good as those in England, yet by all the accounts I have heard, they may be very much improved: to this I must add, that their coast lies so convenient both for fisheries and trade, that in a short time several little towns may be erected, for which purpose the commissioners have by this Bill a power to grant even a property in the ground to be built on; and even as to lands, they have a power to grant a lease for 41 years, if the lessee will engage to lay out in improvements, within the first seven years, any sum not less than five years rent of the premises.

Now, my lords, if a man has ten acres of ground in property for his house and garden, paying yearly for the same a small feu duty to the crown, and has a lease of a large farm in the neighbourhood at a low rent for 41 years certain, can we doubt of his endeavouring to improve that farm? Can we suppose that he will spare either pains or expence for that purpose, if he thinks he has a probable view of success? The improvement of the lands of these forfeited estates is not therefore expected to arise from the commissioners or managers to be appointed by the crown, but from the lessees for long terms under the crown; and it is by such lessees under ground landlords, that the lands in England, and indeed in all countries, have

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been improved. But besides the improvement of the lands, there are other great improvements in every part of the highlands to be expected from this Bill. By introducing some industrious strangers among them, by erecting public schools, and by dividing parishes, it is to be hoped, that a new turn may be given to the spirit of the people; and by making highways, passable in winter as well as summer, through several parts of the country, and improving some of the many natural harbours upon that coast, so as to make them safe, and of easy access for ships at all seasons, towns and villages may in a few years be erected in places where there are now nothing but barren mountains and inaccessible valleys. The rents of these estates will, I hope, be sufficient for the whole expence necessary for these purposes; and besides the security against any future rebellion, it will be money profitably laid out by the public, because by the increase of rich and industrious people in that country, the public revenue will probably in a few years be increased, much more than the interest of the money paid by the public for those estates, could ever have amounted to.

I hope, I have now convinced your lordships, that this Bill, if passed into a law, will probably answer both the salutary ends proposed by the legislature, and steadily pursued ever since the last rebellion; but suppose some of your lordships should still remain in doubt as to the good effects of this Bill, yet no one can remain in doubt of its being necessary to pass it before the end of this session; for you cannot now alter the act I have mentioned of the 20th of his majesty's reign, and unless that act be altered, or this Bill passed, before the end of this session, some, if not all, of these highland forfeited estates must be sold by public sale before the beginning of next session. If any of them are sold by public sale, it is certain that some trustee for the forfeiting family will be the highest bidder, and consequently must be confirmed as the purchaser: thus the disaffected chief will again recover possession of the estate of his family, which, I am persuaded, every one of your lordships will most heartily be for preventing; and as it has not been so much as suggested, that any bad effect can before next session arise from passing this Bill into a law, I hope the question for its being committed will be unanimously agreed to.

My lords, as to the window tax, or any other tax that ought to be levied in Scotland, I confess myself entirely ignorant; but I must observe, that if the expence of levying a tax would, by the situation and circumstances of any part of the country, exceed the produce, it would be ridiculous in the ministers to apply to parliament for a remedy, because in such a case it would be impossible even for the parliament itself to find out or apply a remedy; for, I hope, you would not abolish a tax, upon which a considerable part of the public revenue depends, for no other reason but because it cannot be raised in the mountains of Wales, or highlands of Scotland.

The Bill was then ordered to be committed, and was afterwards passed.*

* "The dispositions of the people of Scotland, ever since the last Rebellion, appeared to be dutiful, and inclined to industry of every kind. Their trade, their manufactures and agriculture, had, in those few years, most surprizingly increased. Many gentlemen of fortune in England had visited the country, and saw how capable it was of further improvements with proper encouragements. But the genius of the people was to be consulted, and their prejudices removed. They were to be inured to habits of industry, and a new set of manners was to be introduced amongst the more civilized part of the people, before they could become peaceful, useful, and dutiful subjects. The duke of Argyle, and other persons of great consideration in that country, who were well acquainted with the nature of the commonalty, represented all this to the English ministry; and it was agreed to apply the rents and profits of the forfeited estates, to the purposes above-mentioned. Accordingly, the lord advocate of Scotland, by order of the House of Commons, brought in a Bill for annexing certain forfeited estates in Scotland to the crown unalienably, and for making satisfaction to the lawful creditors thereupon, and to establish a method of leasing the same, and applying the rents and profits thereof for the better civilizing and improving the highlands of Scotland, and preventing future disorders there. The estates proposed to be applied to the purposes of the Bill, were those of the duke of Perth, the earl of Cromarty, the lord Lovat, M'Donald of Barrisdale, Cameron of Lochiel, Stewart of Ardshiel, M'Donald of Kenloch Moydart, M'Pherson of Chinie, Bucannan of Aruprior, M'Donald of Lochgary, Cameron of Callost, Farquharson of Monaltry, M'Donald of Keppock, and Robertson of Strowan. When the Bill came to be opened, and understood, it appeared, that the rents of the estates already mentioned, were to be annexed unalienably to the crown, in order that the yearly income of

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*The King's Speech at the Close of the Session.*] March 26. His majesty put an end to the session with the following Speech to both Houses:

"My Lords and Gentlemen,

"I cannot put an end to this session of parliament, without returning you my hearty thanks for the great application and dispatch with which you have gone through the public business; you have not only shewn your just satisfaction in the measures I have pursued in foreign affairs, but have also given me your support in carrying them on, with that zeal and cheerfulness which I had reason to expect from so dutiful and affectionate a parliament, who are entirely convinced, that those measures are calculated to maintain their own essential interests, and to render the present peace durable and lasting.

"The many laws now passed, will, I hope, attain the good ends intended by them. Nothing that depends upon me shall be wanting to make them effectual, and particularly to execute in a right manner, the provisions made for civilizing and reducing into order such parts of the united kingdom, where the want of knowledge, improvement, and due obedience to the laws, had remarkably furnished opportunities to seduce people from their loyalty.

"Gentlemen of the House of Commons,

"My particular thanks are due to you, for the supplies which you have so readily granted me, your care to support the reduction of the national interest, and to put great part of the debt into a method more convenient for the creditors as well as for the public, is a fresh instance of your attention to that important concern.

"My Lords and Gentlemen,

"Nothing in this world can give me so much pleasure, as to see you a flourishing and happy people; exert yourselves in your several stations to do your parts, and you may depend on my unwearied endeavours to secure this great blessing to ourselves, and transmit it to posterity."

The Parliament was then prorogued to the 4th of June; and was afterwards further prorogued to the 11th of January 1753.

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the same might be applied, as his majesty and their successors, by their sign manual, shall direct, to the purposes of civilizing the inhabitants of the said estates, and other parts of the highlands and isles of Scotland, and the promoting among them the Protestant religion, good government, industry and manufactures; for which purpose his majesty was empowered to appoint commissioners for managing the said estates, who were to have no salaries, but to appoint stewards under them, with an allowance not exceeding 5*l.* per cent. of the rental, and also clerks and other officers with reasonable salaries; and to grant leases for any term, not exceeding 21 years, upon a reserved rent of not less than three-fourths of the real annual value, and not above 20*l.* a year to any one person; all of which lessees were to take the oaths to the government, to reside upon and cultivate the premises, and not to assign or let the same to any other person, nor to pay any gratuity whatsoever to any other person for holding the same.

"Had those estates been disposed of by public sale, as was directed by a former act of parliament, it was more than probable that they would have been purchased for the late owners, and thus the spirit of disaffection might still have remained in those parts. But in order to obviate this danger, and that the just claimants upon such estates might be satisfied, the Bill directed that they should be paid, as far as the true value of the estate could go, and a valuation of the same was to be made by the court of session in Scotland, at the joint suit of the crown and the creditors; and upon their certificate of the value, the claimants were, to the amount of that value, to be paid out of the next aids to be granted by parliament, according to the order of preference which the same lords of session were to settle. But notwithstanding the patriot spirit of this Bill, it was some time before it could make its way through the opposition it met with in the House of Lords, as well as Commons. The division in the latter was 134 for its passing, and 29 against it; and in the House of Lords, it passed by a majority of 80 against 12." Tindal.

# 1753.

## SIXTH SESSION

### OF THE

## TENTH PARLIAMENT

### OF

## GREAT BRITAIN.

*The King's Speech on Opening the Session.*] January 11, 1753. The King came to the House of Peers, and opened the session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"I have received so many proofs of the good affections and zeal of my people for my person and government, that every opportunity of meeting them in parliament gives me a new satisfaction. The maintenance of the general peace, already happily established, is so desirable for all Eu-

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rope, that all my views and negociations have been entirely calculated and directed to preserve it, and secure its duration. I am still proceeding, and shall continue, to act upon the same principle; nothing being capable of giving me so much comfort as that my good subjects may long enjoy the happy fruits of the present tranquillity: I have the satisfaction to be assured of a good disposition in all the powers in alliance with me to adhere to the same salutary object; and the measures which have been taken in different parts of Europe for that purpose cannot fail to give additional strength and solidity to the provisions made by the treaty of Aix la Chapelle.

"Gentlemen of the House of Commons,

"The Estimates for the current year shall be laid before you by my order. I have no Supplies to ask of you, but what shall be necessary for the ordinary services, and such as have been already communicated to you; and for the security of the nation, and the support of its trade, and commerce, on which the essential interests of this kingdom depend. I must at the same time earnestly recommend the continuance of your attention to the Reduction of the National Debt, the improvement of the Public Revenue, and augmenting the Sinking Fund.

"My Lords, and Gentlemen,

"I hope you will find that the laws made the last session of parliament, for suppressing those crimes and disorders which have been so justly complained of, have had a good effect. Whatsoever is further necessary to perfect so laudable a work deserves your serious consideration; that, whilst we enjoy peace abroad, we may maintain good order and regularity at home. My hearty concurrence and endeavours shall never be wanting in any thing that may promote your welfare and prosperity."

*The Lords' Address of Thanks.*] His majesty having retired, the Earl of Marchmont moved the following Address, which being seconded by Lord Archer, was agreed to:

"Most Gracious Sovereign,

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled beg leave to return your majesty our humble thanks, for your most gracious Speech from the throne.

"Your majesty's paternal care of your people in establishing the peace, can receive no addition but from your constant and vigilant endeavours to preserve to them the happy fruits of it. Whilst we gratefully remember the one, and feel the good effects of the other, we do with the justest confidence, rely on your majesty's experienced wisdom and goodness, in directing all your views and negociations to that desirable end.

"It gives us great satisfaction, to be informed from the throne of the good disposition of all the powers in alliance with your majesty to maintain the present tranquillity. Convinced that this is the real interest of the other nations of Europe as well as our own, we rejoice in every event that may give strength and solidity to the provisions made by the general definitive treaty. We are deeply sensible that nothing can so much contribute to these purposes as the influence of your majesty and the crown of Great Britain. And we beg leave to assure you of our resolution and earnestness to strengthen your majesty's hands; and, so far as depends upon us, to add weight to your measures, to render the peace durable, for the common good of Europe, the lasting benefit of your own kingdoms, and the security of our commerce and navigation; the support and advancement whereof we consider as the great source and solid basis of our riches and strength.

"Your majesty's concern for our domestic happiness appears in nothing more than in so graciously recommending to your parliament the salutary work of maintaining good order and regularity amongst the people. We look upon it as essential to the national happiness; and as the most likely means, not only to entitle us to your majesty's gracious approbation, but to draw down upon us the protection of the Divine Providence.

"To repeat only our solemn assurances of unfeigned gratitude for the inestimable blessings we enjoy under your auspicious government, would not sufficiently express the warmth of those sentiments which we feel in our hearts: our loyalty, duty, and affection to your sacred person, are raised to the greatest height; and our zeal for the ease, prosperity, and true glory of your reign, and for perpetuating the succession to this crown, which you wear with so much lustre, in a race of princes descended from yourself, is incapable of any addition."



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*The King's Answer.*] The King returned this Answer:

"My Lords;

"I return you my thanks, for this very loyal and dutiful Address: nothing can give me greater satisfaction than these solemn assurances of the continuance of your zeal and affection for my person, family, and government. I firmly rely on your support; and you may depend on my hearty concern for your true interests."

*The Commons' Address of Thanks.*] The Commons being returned to their House,

Mr. *Charles Yorke*, second son of lord chancellor Hardwicke, moved, "That an humble Address be presented to his majesty, to return his majesty the thanks of this House for his most gracious Speech from the throne; and to congratulate his majesty upon his safe and happy arrival in this kingdom; to express our sincere joy, that the dutiful conduct of his majesty's faithful Commons has been rewarded with his royal approbation; and to assure his majesty of the continuance of that zeal and affection for his person and government, which his majesty's constant attention to the happiness of his people so justly demands; to acknowledge his majesty's wisdom, as well as goodness, in pursuing such measures as may best contribute to maintain, and render permanent, the general tranquillity in Europe; and to declare our satisfaction at the assurances which his majesty has received from his allies, of their good disposition to adhere to the same salutary object; to promise his majesty, that we will, with cheerfulness, unanimity, and dispatch, raise such supplies as shall be found necessary for the security of the nation, and the support of its trade and commerce, so essential to the well-being of this country; to testify our grateful sense of his majesty's provident concern for the welfare of this nation, in recommending again to our attention the lessening of the national debt; and to assure his majesty, that we will take into our serious consideration the best means to improve the public revenue, whereby the heavy load of our debts may be put in a method of being gradually reduced, and the national credit, already in a flourishing condition, may be firmly established; to assure his majesty, that whilst we reflect with gratitude upon the blessing of peace abroad, and enjoy the daily fruits of the continuance of it, we will not be wanting in our endeavours to preserve good order and regularity at home; happy in this conviction from the whole tenor of his majesty's auspicious reign, that we are sure of his majesty's hearty concurrence in every measure that may tend to promote the true interests and prosperity of his people."

Mr. *Robert Tracy* seconded the motion.

The Earl of *Egmont* objected to the complimenting his majesty on his wisdom upon this occasion, and moved that the words "wisdom as well as" be left out.

In this he was seconded by some other members, who declaimed greatly against the whole system of foreign measures that he had been advised to pursue.

The Address, however, was carried without a division, and is as follows:

"Most Gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, humbly beg leave to return your majesty our hearty thanks for your most gracious Speech from the throne; and to congratulate your majesty upon your safe and happy arrival in this kingdom.

"Permit us, Sir, to express our sincere joy, that the dutiful conduct of your majesty's faithful Commons has been rewarded with your royal approbation, and to assure your majesty of the continuance of that zeal and affection for your person and government, which your majesty's constant attention to the happiness of your people so justly demands.

"We must ever acknowledge your majesty's wisdom, as well as goodness, in pursuing such measures as may best contribute to maintain, and render permanent, the general tranquillity in Europe: And suffer us, Sir, at the same time, to declare our satisfaction at the assurances which your majesty has received from your allies, of their good disposition to adhere to the same salutary object.

"Your faithful Commons, with the truest zeal and duty, promise your majesty to raise, with cheerfulness, unanimity, and dispatch, such supplies, as shall be found necessary for the security of the nation, and the support of its trade and commerce, so essential to the well-being of this country.

"We cannot sufficiently testify our grateful sense of your majesty's provident concern for the welfare of this nation, in recommending again to our attention the

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lessening of the national debt; and do assure your majesty, that we will take into our serious consideration the best means to improve the public revenue, whereby the heavy load of our debts may be put in a method of being gradually reduced, and the national credit, already in a flourishing condition, be firmly established.

"We further beg leave to assure your majesty, that, whilst we reflect with gratitude upon the blessings of peace abroad, and enjoy the daily fruits of the continuance of it, we will not be wanting in our endeavours to preserve good order and regularity at home; happy in this conviction, that, from the whole tenor of your majesty's auspicious reign, we are sure of your majesty's hearty concurrence in every measure, which may tend to promote the true interests and prosperity of your people."

*The King's Answer.*] The King gave this Answer:

"Gentlemen;

"I thank you most heartily for this very affectionate Address. Your zeal for the good of the public, and for my government, cannot but afford me the highest satisfaction. My chief concern will always be the happiness of my people."

*Debate in the Commons on the Number of the Land Forces for the Year 1753.**] January 26. The House having resolved itself into a Committee of Supply, the Secretary at War, Mr. Henry Fox, moved, "That a number of land forces, including 1,815 invalids, amounting to 18,857 effective men, commission and non-commission officers included, be employed for the service of the year 1753." Mr. William Northey having moved, "That 15,000 be inserted instead of 18,857,"

Mr. *William Beckford* rose and said:

Sir; the question now before us has been so often debated, that I do not expect that any thing I can say against our keeping up such a numerous army in time of peace, will have any effect. Nevertheless, whilst I have the honour of a seat in this assembly, a proposition for keeping up a standing army of 18,857 men in time of peace, shall never become a motion of course, or pass *sub silentio*, as the question for a malt-tax now annually does, though for many years it was deemed such an oppressive tax, that no one ever supposed it would be revived in time of peace. But slavery itself becomes so familiar in a long tract of years, that liberty would be rejected if offered to those that have been long accustomed to be slaves; and I am sorry to say, that a standing army, which is always the harbinger of slavery, is now become so familiar to us, that no man could expect attention, were he to propose the most certain and infallible scheme for getting rid of it, by substituting in its stead a well regulated and well disciplined militia; yet every man is ready to confess, that standing mercenary armies have overturned the liberties of all countries where they have been long kept up: every man must confess, that such an army, and an army, too, that had been raised under the pretence of defending our liberties, subjected us to the most infamous sort of slavery; and such an army would again at the Revolution have subjected us to a slavery equally bad, though not quite so infamous, if they had not found out, that their king was resolved to turn every man out of his army who would not declare himself a Papist. As both these remarkable passages in our history are but of a modern date, every gentleman that hears me must be thoroughly acquainted with the facts; and yet I must beg leave to recapitulate some of them, because they never ought to be let slip out of the memory of any Englishman.

The army, Sir, that was raised by the parliament in king Charles I's time, was, we know, raised by the joint consent of the two Houses of Parliament, under pretence of defending the liberties of the people against the designed encroachments of the crown; yet that army had no sooner defeated the king's party, and got him into their power, than they began to garble this House. They first turned eleven members out of the House, and soon after nearly one hundred under pretence of their being malignants, a name which those very members had before given to the king's party, and therefore was most deservedly made use of against themselves. In short, they turned so many members out, and intimidated so many others from attending, that when they brought the king to the scaffold, I must say, to the honour of both Houses, there were but very few lords who attended, or indeed durst attend in the other House, and not above fourscore members in this; and presently after they had murdered the king, they obliged this House to declare the other

* From the London Magazine.

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useless and dangerous, and therefore to be abolished. But all this their general, Cromwell, was not satisfied with: he could not be easy whilst there was so much as the shadow of either House of Parliament in being; and therefore he came at last with a detachment of his soldiers at his back, turned the Speaker out of the chair, the members out of the House, and locked up our doors, after having in the most contemptuous manner ordered his attendants to take away that bauble, the mace.* Thus by means of the army he established his own sole and arbitrary tyranny, and all this before that army had been kept standing above eleven years.

Then again, Sir, in king James 2's time, his behaviour towards those officers of his army who refused to receive Irish Papists as recruits into their companies, and the behaviour of his Popish lord lieutenant of Ireland, who had not only turned all the Protestants out of the army there, but had, as far as he could, disarmed all the Protestant subjects of that kingdom, were evident proofs, that he was resolved, as soon as he could, to turn all officers and soldiers out of his army in England; yet, how did the army behave? That army, Sir, which has been since so much talked of as friends to liberty, and whose behaviour has so often been made an argument for proving, that our liberties can be in no danger from a standing army: that very army, Sir, continued stedfast to him, and supported him in all his violent measures, until the prince of Orange was safely landed with all his troops: then, indeed, some of the chief officers, and a very few under officers, who foresaw, that if the king's absolute power should be established, the priests, and not they, would be the dispensers of it: I say, Sir, a very few such deserted, and went over to the prince of Orange; but the soldiers all continued firm, except such as had been deceived and led into the prince's army by the lord Cornbury. Nay, they desired to be led on to action; but that unfortunate and misguided prince was made so diffident of his army, that he left them and returned to London: therefore, notwithstanding all that has been said of the behaviour of that army, the truth is, that the army was deserted by the king, and not the king by the army; and even that army, which had been so lately raised, if it had had nothing to contend with but an insurrection of the people, nor any foreign regular army to resort to, I am afraid, that not a man of them would have appeared in favour either of the religion or liberties of their country.

It was this foreign regular army, and this alone, Sir, that then saved us from the fatal effects of our own standing army, though our religion as well as liberties was then in the utmost danger. But, Sir, our liberties may be in danger, without any danger to our religion: a Protestant prince may resolve to deprive us of the very shadow of liberty, as Cromwell did: and if such a prince should be provided with a standing army, can we always expect to find such a deliverer as the prince of Orange? If we could find such a one, could we depend upon his arriving safely with his army in this island? I must therefore conclude, Sir, that whilst we keep up a numerous mercenary army, we can have no security for our liberties but the wisdom and moderation of the prince upon the throne; and for this reason I should be for a much larger reduction than is now proposed, if I could expect to be supported; for when the people of this kingdom were at least as warlike and as well armed as they are at present, that is to say, in the beginning of king Charles 1's reign, the court politicians of those days were of opinion, that it would require but 3,000 foot in constant pay, to bridle the impertinence of parliament, as they called it, and as ministers will always call every opposition to their measures. Notwithstanding the present unarmed and undisciplined condition of my countrymen, I have not so mean an opinion of their courage and spirit as to think, that this number would be sufficient for establishing and supporting slavery amongst us; but when I consider that Cromwell had but 27,000 men for supporting his infamous tyranny, and that Monmouth, that darling of the people, was defeated, and brought to the block by 2,000, I must think that, as our nobility and great landed gentry have now so little influence or command even over their own tenants, a less number than is now proposed would be sufficient for depriving us of our liberties, if our sovereign should resolve to employ his army for that purpose.

For this reason, Sir, I should be for a greater reduction than is now proposed, if I could entertain any hopes of success; but I really believe that Mr. Trenchard was indued with something like a spirit of

* See Vol. 3, p. 1381.

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prophecy, when he told us in king William's time, that if an army of mercenary soldiers should be kept from oppressing the people, they would in a little time grow so habitual to us as to become a part of our constitution, and that by degrees we should be brought to believe them not only not dangerous, but even necessary; for this is really so much our case now, that I shall content myself with only declaring for the smallest number proposed, and consequently shall give my vote for the amendment.

The Earl of *Egmont*:

Sir; as gentlemen have objected against the largeness of the number of troops proposed to be kept up for the ensuing year, and have given very strong reasons for supporting their objections, I waited for some time to hear what answer could be made to those objections, and if I had heard any thing like an answer, or any tolerable reason given for keeping up such a numerous army of mercenary troops within this island in time of peace, I should have given you no trouble upon this occasion; but as no answer has yet been made, I think myself obliged to call upon those gentlemen who are for such a dangerous and expensive measure, for, I hope they will not allow the question to be put, without attempting at least to answer the objections that have been made. Whatever assurance they may have of the question being carried in favour of the number they propose, yet in common decency, and out of that respect which gentlemen owe to one another, they ought to give the House some reasons for being of a different opinion from those gentlemen who have moved for a lesser number. What those reasons may be I am much at a loss to conjecture; for as the hon. gentleman who moved for this large number told us, that every thing is quiet at home, and as we have from the highest authority been informed, that every thing is quiet abroad, nay, that there is not at present so much as a suspicion of any disturbance, if such a large number of troops be now necessary, the same number must always be necessary, which is a doctrine I should tremble to see established by the majority of an incorrupt and independent parliament.

I am really surprised, Sir, to hear some gentlemen pretend to be Whigs, or that act upon Revolution principles, and yet at the same time declare for keeping always up such a numerous army of mercenary troops; for every one knows, that both the Revolution and our present happy establishment were founded upon the principle of resistance; but by keeping up such an army they will make resistance not only ridiculous but mad; nor can the mildness of his majesty's government, or the security we have from his justice and moderation, be made an argument in favour of such a measure, but on the contrary it is an argument against it; for, like queen Elizabeth, he may point to people in the streets and say, 'These are my guards: upon these I can depend for defence against all my enemies, either foreign or domestic.' And I am sure the old pretence of Jacobitism can now furnish no argument for keeping up a numerous army in time of peace: for they met with such a rebuff in their last attempt, that, I am convinced, they will never make another, whilst our sovereign possesses, as his majesty does, the hearts and affections of all the rest of his subjects, especially as they must now be convinced, that however much France may encourage them to rebel, she will never give them any effectual assistance.

Thus, Sir, it is not now possible to draw an argument for keeping up such a numerous army from any circumstance at home, and it is equally impossible to draw such an argument from any circumstance abroad. Last year, it is true, a birth in one place, and a death in another, furnished some of my old friends with a pretence for changing their opinion, and differing from me upon the subject of our army: whether or no they will return to their old opinion is more than I know, but I am sure the same pretence cannot now be made use of; for the French are so far from having reaped any benefit from the birth of a dauphin, that they seem to be more divided and distracted than they were before; and the Dutch government is now resettled upon as firm a basis as it was before, with this additional advantage, that the known wisdom of the princess governante will in all human probability secure its internal tranquillity during her life, and probably increase its vigour and activity, as the liberties of that people, of which they are so wisely jealous and so gloriously tenacious, can never be supposed to be in danger under her administration.

I know, Sir, it may be said, that though the European sky appears now to be per-



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fectly serene, yet it is extremely liable to sudden squalls, and therefore we should be always provided with such a number of regular troops, as may enable us to send our stipulated quota to the assistance of any of our allies that shall happen to be attacked. But we all know, Sir, that there is not one of our allies that in such a case would insist upon our sending our troops: they would gladly accept of an equivalent in money or in ships of war. And as to wars upon the continent of Europe, should we ever have the misfortune to be engaged as principals in another, I shall never be for carrying it on by a large body of national troops, because we can always get foreign troops to hire, and with the same sum of money that the transporting and maintaining a body of our own troops abroad will cost us, we may hire double the number of foreign troops. This, therefore, should be our adopted measure in every war upon the continent of Europe, and if any such war should soon happen, our adopting this measure will be absolutely necessary; for as a pretty certain conjecture may be made how the several powers of Europe will stand affected in such a war, I have been at the pains to make the calculation, and I think it is evident, that the powers who may probably be allied against us, will have a greater number of troops to bring into the field, than can now be brought by those powers that may probably be engaged in an alliance with us. In such a case would it not be ridiculous in us to send 20,000 of our own troops to join our allies, instead of joining them with 40,000 foreign troops, which would put us to no greater expence?

This alone, Sir, is a sufficient reason for our resolving never to carry on any war upon the continent, by sending thither a large body of national troops; but there are several others. A balance of power in Europe is certainly a consideration that may often engage us, at least as allies, in a war upon the continent, but with respect to this island it is as certainly a foreign, and a very remote consideration; therefore if we should hereafter find it necessary to spend our money for the support of it, I hope we shall for the future take care not to spill our blood. We know what a distress is brought upon agriculture, and upon every sort of manufacture, by a large augmentation of our army: we know how our streets and highways are filled with thieves and robbers by the disbanding of that army; and we know what a lasting expence is brought upon the public by half-pay to gentlemen who have neglected or forsaken all other trades, in order to follow the trade of war. All these misfortunes we shall avoid by carrying on the war with hired instead of national troops; therefore no danger of a foreign war can be an excuse for our keeping up a numerous army in time of peace; and even if it could be supposed, that in case of a foreign war, any of our allies should insist upon our sending them a body of our troops, even the smallest number now proposed will be a sufficient stock for answering that purpose, considering the body of troops we have in Ireland, and the number of officers we have upon the establishment of half-pay, because by these means we may at any time increase it to double, by the time that transports can be got ready for carrying a part of our troops beyond sea. Nay, by the method in which our army is kept up: by our having so few private men in each regiment, and such a number of regiments in our service, I do not know but that our army might in a few weeks, or a very few months, be made equal in number to that the king of Prussia has now in actual pay; and this makes it of much the more dangerous consequence to our liberties.

Our government, Sir, is now much stronger, and more firmly established than ever any government was in this country heretofore. The vast number of lucrative places it has at its disposal, attaches an infinite number of people to the administration for the time being, and would, I fear, attach most of them, let the administration be never so weak or oppressive: our public funds, too, is a security which no government ever had before the Revolution; and our garrisons are not only much stronger, but growing every day more numerous: Portsmouth may now be called a complete fortification: Plymouth has had several new works added to it; and the new fortress called Ardersier, in Scotland, will be vastly strong: I have seen the plan of what is designed, and when that plan is executed, it will, in my opinion, be as impregnable as Gibraltar, or rather more, because it can be attacked neither by sea or land. It may now be of use for stifling that spirit of Jacobitism which by neglect has been allowed to prevail long in that country, but it will equally serve, and may hereafter be made

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use of, for stifling the spirit of liberty; and if that spirit be stifled in one part of the country by impregnable fortresses, and in other parts by numerous mercenary armies, I should be glad to know how or when the ancient Whig spirit of resistance can operate. In my opinion it can operate no where, nor at any time: a government may be overturned by a seditious mutiny of our guards, in conjunction with a pilfering mob of the rabble here at London, but such a spirit of resistance is nothing like a spirit of liberty: on the contrary, it is always more likely to operate against a mild and just government, than against a cruel and oppressive tyranny.

To conclude, Sir, 15,000 men may be necessary for our guards and garrisons, and for preventing our being obliged to call industrious men from their employments upon every occasion; but every man we keep in pay above that number in time of peace, I must look on as a man hired to rivet the chains of slavery upon the necks of the people of this kingdom, and therefore I shall most heartily concur in voting for the smallest number.

Mr. *Henry Fox:*

Sir; before I made the motion for the number of troops I proposed, I gave you what I thought were sufficient reasons for our agreeing to it: it is true I did not expatiate upon the subject, because I was unwilling to take up much of your time, and because I thought it quite unnecessary, as I was to propose no greater number for the ensuing year, than what was last session though necessary for the current, by a very great majority of this House; and I defy any gentleman to give, indeed no gentleman has attempted to give, a solid and serious reason, why a less number may be sufficient for the year ensuing, than was necessary for the year now almost at an end, without the least appearance of any of those dangers which, by the fruitful fancy of some gentlemen, are upon every such occasion set in so hideous a light. But, Sir, when we talk of dangers, gentlemen should recollect the misfortune that happened to us in 1745, and the much greater misfortune that might have happened to us. Sir, if there had been but 3,000 men, which is the whole number now in dispute, more in Scotland than were actually there at that time, I am very positive, there never would have been any such thing as a rebellion, so that we should have saved all the expence we were thereby put to; and if that body of troops which we were obliged to bring over, had remained in Flanders, they might have given such a turn to the war in our favour as France would never have been able to recover. This was, therefore, a most signal misfortune, brought upon us purely by our not having at the time a sufficient number of troops in the island, for keeping the disaffected in awe. But I reflect with horror upon the danger we should have been exposed to, if his royal highness and the troops he brought along with him had been detained but three or four weeks in Holland, by contrary winds. The rebels, we know, had given the slip to general Wade, and they might have done the same to our army at Barnet: but if they had not, that handful of raggamuffins, as they were called by many who seemed to be more ready to call names than to give blows, might have had a good chance for victory against our party-coloured army at Barnet, of which an ingenious painter has given us so lively and, I am afraid, so true a representation; and if by giving that army either the slip or a defeat, they had got possession of our capital, I believe no gentleman will suppose, we should now have been sitting here, or that any man in the kingdom would have dared to dispute our new government's keeping up what number or what sort of troops it pleased.

We should then indeed, Sir, have had an army kept up to rivet the chains not only of civil but of ecclesiastical slavery: but such an army as we now have, will always be a barrier against both, and therefore I am glad to hear, that it may be so easily increased upon the approach of any danger; for nothing but the expence prevents my being for our keeping up a much greater number than is now proposed, because it would prevent all the evils which the noble lord says ensue from augmenting or disbanding our troops. And with regard to our liberties, I cannot really comprehend how any gentleman can think them in danger from 18 or 19,000, and yet in no danger from 15,000 men; for in my opinion, 15,000 regular troops, if they were all such a tyrannical prince could depend on, would be fully sufficient for establishing arbitrary power in this or any other kingdom. Therefore, with regard to our liberties, there is not the least difference between 15 and 19,000, or if there be any, our safety lies in the greater number, because

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they could not be so easily modelled and managed. Our liberties, Sir, do not depend upon the number but the nature of the troops we keep in pay. Whilst our army is commanded by gentlemen of the best families and fortunes in the kingdom, whilst its very being depends upon the annual consent and regulation of parliament, and whilst it consists wholly of British subjects, our liberties can never be in any danger, were our army much more numerous than it is; for the officers will never join in any measure that might make their estates as well as their commissions dependent upon the precarious will of an arbitrary sovereign, instead of that firm dependence which they now have upon the laws of their country; and even common men who have from their infancy been bred up with a love of liberty, would disdain being made the instruments for fixing slavery upon themselves as well as their country. Our army therefore, whilst it consists of such men, and is commanded by such officers, will always be a security for our liberties; and if any attempt were to be made to alter the nature of our army, by dismissing those officers and introducing foreign soldiers, the parliament might, and certainly would interpose before such an attempt could be brought to any sort of maturity, and the dismissed officers and disbanded British soldiers would as certainly be ready to assist the parliament against any force that might be made use of, for preventing their bringing the advisers of such an attempt to condign punishment.

However generally that doctrine has been received, Sir, that liberty has in all countries been destroyed by a standing army, I am of opinion, it is not strictly true. At least I think, that no free country ever lost its liberty by an army of national troops, unless those troops were constrained to act against the inclination, perhaps, of most of them, by large bodies of foreign auxiliaries. The Roman republic had lost its liberty, by the corruption, venality, and indolence of the people, long before Julius Cæsar passed the Rubicon: the dispute was not then about liberty, but whether Cæsar or Pompey should be absolute governor of the republic: if liberty had any concern, it was on the side of Cæsar; for the tribunes of the people were obliged to fly from Rome, and to take refuge in his army. So likewise in all the future contests the question was only, who should be absolute master of the Roman empire; and each contending chief took care to strengthen his cause by taking large bodies of foreign auxiliaries into his pay. In France, in Spain, in every country where absolute monarchy has been long established, we shall find, that if it was not originally set up, it has been continued and preserved by numerous bodies of foreign troops, by which the slavish submission of the national has at all times been secured. Even in Turkey, the janizaries may be called foreign troops; for few of them know their country or relations, or have any connections but with the chamber to which they belong. Liberty, Sir, is so natural to mankind: it is so natural for every man to desire to have his life and fortune secured by known and established laws, that the natives in every country will preserve it, and if they have been cheated out of it, or in an extravagant fit of gratitude have cheated themselves out of it, they will endeavour to recover it if they can; but foreign troops think only of returning to their native country, in order to enjoy there in safety the fortunes they have got by their service: they have no concern for the country where they serve, nor any connections with the people by whom they are maintained. They are therefore the only fit instruments for establishing and preserving the arbitrary power of the monarch who hires them; and accordingly we find they are made use of in all despotic governments; but even they become useless for this purpose, if they are allowed to procure settlements in the country where they serve, as we may find from the history of the Normans after the death of William the Conqueror. They established, they preserved during his life, his arbitrary power; but in the reigns of his successors they became the chief assertors of the liberties of the people; and king John was forced to call over a new army of foreigners for supporting his tyranny, during the short time he was able to support it. From all history, therefore, Sir, we may conclude, that our liberties can never be in any danger from such an army as we have at present; and the late rebellion must convince us of the little dependence we can have upon the militia as it is modelled at present. Whether a serviceable militia; a militia upon which we could depend for our defence even against an invading army of foreign veterans, can be formed in this rich and trading country, is a question of a very

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different nature. I confess, I am of opinion, that it is impracticable: but supposing it were not, I am very sure, that such a militia would be much more troublesome and expensive to the people, and would be of equally dangerous consequence to our liberties; for I hope no gentleman now thinks of adopting the principles of the parliament of 1641, by taking the power over the militia out of the hands of the crown. However, Sir, let this question about a serviceable militia be determined which way it will, I hope gentlemen will excuse my being for a standing army, until I see a practicable scheme for forming such a militia; and whilst such a disaffected spirit prevails in some parts of the island, I must think, that it would be very unwise in us to have at any time a less number of troops on foot than that which I took the liberty to move for.

Mr. *Pelham:*

Sir; when the noble lord spoke of resistance as being the Whig principle, and the principle upon which the Revolution and our present happy establishment was founded, he should have distinguished between a constitutional and a factious resistance. A constitutional resistance is that made against an administration which advises their sovereign to encroach upon the liberties of the people, or the privileges of parliament, and to pursue such measures as evidently tend to the overthrow of our constitution. On the other hand, a factious resistance is that made against a just and wise government, and against a sovereign who has always made the laws of the land the rule of his government; which sort of resistance is never founded upon any thing but private or party interest or resentment. The former is the true Whig principle: in this respect I am still, and shall always be a Whig, as much as ever I was; and shall always think myself bound, in duty to my country and to posterity, to join with those who unite, even in forcible measures, when such become absolutely necessary, for removing evil counsellors from about our sovereign, and for punishing those who have given him such wicked advice. But whilst a government pursues right measures, and attempts nothing that can be thought inconsistent with our constitution, I shall always be for strengthening its hands so as to render any factious or seditious resistance not only ridiculous but mad.

The measures pursued by the government is therefore, Sir, the only criterion by which we can determine, whether resistance may be called constitutional or factious, that is to say, whether just or unjust: and in this case the judgment must be left to the opinion of the people in general. Gentlemen who have the honour to be members of this or the other House of Parliament, may differ in their opinion about this or that particular measure, and they ought, I hope they always do vote accordingly; but when a measure is resolved on by the king, and approved of by a majority in each House of Parliament, surely I am not to resist the execution of that measure, because I happen to be of a different opinion; for upon such a principle no government could be carried on, no society could subsist for a twelve-month. It is therefore my opinion, that whilst we have a parliament regularly and duly assembled, there can be no such thing as a constitutional resistance; because if during the interval of parliament the government should pursue any measure that some or many might think tended to the subversion of our constitution, they ought to wait with patience, and apply for redress to the next session of parliament; and if the parliament should be of a different opinion, in modesty they ought to think their judgment wrong, or at least in duty they ought to submit.

But, Sir, when no parliament is held, and the king seems resolved to govern without a parliament, or evidently makes use of illegal means to get such a parliament chosen as will be at his devotion, the case then becomes very different. The people have no recourse but in arms, and resistance becomes constitutional. In this light let us consider our regular army, and we shall find that it would be a safeguard for our liberties. Both officer and soldier would then be free from every sort of legal restraint; and they would certainly do as they did in king James's time: they would either join the people against, or refuse to fight against their countrymen in support of such a tyrannical government. I shall grant, that king James left his army in a very abrupt manner, but why did he leave it, Sir? It was not for want of courage, for in the wars with the Dutch he had manifested his being no way wanting in that respect; but it was because he plainly perceived, that the greatest part of his army would refuse to engage against the prince of Orange and their Protestant brethren; for though very few of them

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had actually gone over to the prince of Orange, yet we know, that many of his chief officers had declared, that they could not fight against a prince who was come over to secure their religion and liberties. And this, indeed, his majesty might have foreseen from the rejoicings made by his army at Hounslow upon the acquittal of the seven bishops, which occasioned that just but severe sarcasm of Lewis 14, who said, 'He could not but laugh at his brother James, for attempting to establish Popery with a Protestant army;' and any prince would equally deserve to be laughed at, who should attempt to establish arbitrary power with an army bred up in the principles and spirit of liberty.

As to the army in Charles the 1st's time, Sir, it was raised with a design to subvert our constitution both in church and state, therefore we cannot wonder at their pursuing the design for which they were raised: they only took their own way for doing it, and they turned that pretended parliament out of doors, because they were for doing it in a different method. That army was not composed of men bred up in the principles of our constitution, but of men bred up in enthusiasm, and who were ready to sacrifice every thing sacred or divine to the establishment of that particular enthusiasm they professed. No sort of argument, therefore, can be drawn from the behaviour of that army, against our keeping up such an army as we have at present: but, Sir, from the history of those times we may draw a most convincing argument for our strengthening the hands of a just and legal government with a certain number of regular troops, for I must submit it to the consideration of every gentleman, whether he would not chuse, that the parliament should be protected in the freedom of their debates, and the regularity of their proceedings, by a few regular troops commanded chiefly by its own members, rather than that we should be overawed, and many members frightened from attending, by a lawless and unruly mob, set on by factious men, and instigated by knavish or enthusiastic preachers?

I hope it will now appear, Sir, that as to all those arguments, or rather declamations, against a standing army in general, there is not one of them applicable to such an army as we have now on foot, were it much more numerous than it is; and as to its number, I am very apt to be of the same opinion with the hon. gentleman who spoke last, and to think, that if it were not for the expence, we ought to keep up a much greater number of troops than we do, because it would prevent those inconveniences we necessarily bring upon ourselves, by being so frequently obliged to augment, and afterwards lessen the number of our troops; because it would give us greater weight with those princes of Europe who incline to be our friends; and because it would deprive those who incline to be our enemies of all hopes of being ever able to reap an advantage by a sudden and unexpected attack upon us or any of our allies. But now as to the expence, I am sure, no argument can from thence be drawn for a reduction of the number, for by the wise measures his majesty has taken, and by his reducing every article of needless expence, the present establishment of our army does not cost the nation so much, as an establishment of 15 or 16,000 men formerly did, and it would be a bad return of our gratitude to the king, to lessen his security, by reducing the number, when he has reduced the expence; for no gentleman who considers what a number of troops we must always have about London, what numbers we must have upon every part of our coast for keeping the smugglers in awe, and enabling our custom-house officers to do their duty: and what a large number we must always keep in Scotland for overawing the disaffected party there: I say, no gentleman who considers this can think it would be prudent in us to reduce our army below what it is at present. When the happy time shall come, for our being in a condition to abolish, or diminish many of our high duties, and in no danger from any disaffected party, we may then with some degree of prudence resolve upon such a reduction; and, I hope, the time is not far off; for our sinking fund will soon enable us to diminish some of our duties, and the disaffected party will soon be extinguished by the wise laws lately made for preventing any of the rising generation being bred up in such principles.

Having mentioned the disaffected party, Sir, I must observe, that from the defeat of the rebellion in 1715, to the year 1745, for I am so old as to have been that whole time in parliament, I remember, that in every such debate as this, the Jacobites were represented by those in the opposition as a dispirited, contemptible party, from whom we could never again apprehend any danger; and yet in 1745, we

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found this party again in rebellion, defeating our troops, and advancing towards our capital with such expedition, that if our troops from abroad had been detained but a few weeks, by contrary winds, they would have had more than an equal chance for success; for we could not have opposed their entry into London with so great a number of regular troops as they afterwards defeated at the battle of Falkirk. With this observation, Sir, I shall conclude, in full confidence that every gentleman who has the security of our present happy establishment at heart, will from thence take warning, and agree to our keeping up for the ensuing year, the number of troops proposed by my hon. friend.

The Committee then divided, when the Amendment was negatived by 253 to 65.

*Resolutions for peopling Jamaica with Whites.*] At this time the common people of England were laid under a most intolerable kind of a tax, by the prodigious rise of the price of Muscovado sugars imported from Jamaica, which made all sugars manufactured in Great Britain double the price of what they were manufactured for by the French and other nations. This hardship was strongly set forth in a Petition brought before the Commons from the sugar refiners, grocers, and other persons dealing in sugars in the cities of London and Westminster, and the borough of Southwark, and by another Petition from the same dealers in the city of Bristol. The aim of these petitions was, to oblige the great proprietors of land in Jamaica, either to cultivate greater quantities of ground for the propagation of sugar, or for the petitioners to obtain leave to import sugars from other countries, when the prices of those imported from Jamaica rose above a certain price: they laying it as an allegation in their petition, That the sugar planters in Jamaica found their interest much more in importing small than large quantities of sugar into Great Britain from that island. As the planters of Jamaica had their grievances likewise to complain of, they had sent over a very strong Representation of them, and of the lamentable state of their island, to his majesty, which alderman Beckford moved might be laid before the House: but this passed in the negative. A committee, however, of the whole House took into consideration the Petition of the English manufacturers of sugar, and examined a great number of witnesses and papers upon it; but such difficulties arose, that nothing final was done in the matter this session. Mr. alderman Beckford, who had a great concern in this affair, undertook the defence of the sugar planters on this occasion. Several papers on that head had been moved for, which were accordingly presented, from the commissioners of trade and plantations. These papers, with a report from the commissioners, were referred to a committee, which on the 8th of March came to the following resolutions; "1. That the peopling the island of Jamaica with White Inhabitants, and cultivating the lands thereof, is the most proper measure for securing that island, and for increasing the trade and navigation between that island and Great Britain as well as to and from other parts of his majesty's dominions. 2. That the endeavours hitherto used by the legislature of the island of Jamaica, to increase the number of White Inhabitants, and to enforce the cultivation of lands, in the manner that may conduce best to the security and defence of that island, have not been effectual for these purposes." These Resolutions being agreed to by the House, a Bill was ordered in upon them, but it did not pass into a law.

*Debate in the Lords on an Address for the Examinations relating to a Person in the Prince of Wales's Service.**] March

* "March 22. Went to the House of Lords, the duke of Bedford opened the affair of Fosset's report against the bishop of Gloucester, Stone and Murray, and appealed to lord Ravensworth, who opened the whole transaction in a long narrative. Then the duke, in a long speech, founded his question upon that narrative, which, in substance, was to address the king for the whole proceeding before the council: the Chancellor and duke of Newcastle answered him, and to make this question (which was foreseen, and I think needed not to be so timorously apprehended) the more unnecessary, they had obtained of the king to dispense with the oath of those lords of the council upon this occasion, and to suffer them to acquaint the House with the whole proceeding, which those two lords did pretty much at large. The debate was long and heavy; the duke of Bedford's performance moderate enough; he divided the House, but it was not told, for there went below the bar with him, the earl Harcourt, lord Townshend, the bishop of Worcester, and lord Talbot only. The bishop of Norwich and lord Harcourt both spoke, not to much purpose; but neither of them, in the

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22. The Duke of Bedford moved, "That an humble Address be presented to his majesty, that he would be graciously pleased to give orders, that there be laid before this House, the several Examinations of the lord Ravensworth, the dean of Durham, Mr. Fawcett, the lord bishop of St. Asaph, the lord bishop of Gloucester, the hon. Mr. Murray his majesty's Solicitor General, Andrew Stone, esq., and such other examinations upon oath, as have been taken before the lords appointed by

least, supported the duke's question. Upon the whole, it was the worst judged, the worst executed, and the worst supported point, that I ever saw of so much expectation.

"I will now set down in writing the exact truth of this strange, important trifle. Mr. Fosset, Messrs. Murray and Stone, were much acquainted, if not school-fellows, in early life. Their fortune led them different ways: Fosset's was to be a country lawyer and recorder of Newcastle. Johnson, now bishop of Gloucester, was one of their associates. On the day the king's birth-day was kept, they dined at the dean of Durham's, at Durham; this Fosset, lord Ravensworth, major Davison, and one or two more, who retired after dinner into another room; the conversation turning upon the late bishop of Gloucester's preferments, it was asked who was to have his prebend of Durham: the dean said, that the last news from London was, that Dr. Johnson was to have it: Fosset said, he was glad that Johnson had got off so well, for he remembered him a Jacobite several years ago, and that he used to be with a relation of his who was very disaffected, one Vernon, a mercer, where the Pretender's health was frequently drank. This, passing among a few familiar acquaintance, was thought no more of at the time: it spread, however, so much in the north (how, I never heard accounted for) and reached town in such a manner, that Mr. Pelham thought it necessary to desire Mr. Vane, who was a friend to Fosset, and who employed him in his business, to write to Fosset, to know if he had said this of Johnson, and if he had, if it was true.

"This letter was written on the 9th of January; it came to Newcastle the Friday following. Fosset was much surprised; but the post going out in a few hours after its arrival, he immediately acknowledged the letter by a long but not very explicit answer. This Friday happened to be the club-day of the neighbouring gentlemen of Newcastle: as soon as lord Ravensworth, who was a patron and employer of Fosset, came into the town, Fosset acquainted him with the extraordinary letter he had received: he told him, that he had already answered it, and being asked to show the copy, said he kept none; but desired lord Ravensworth to recollect, if he held such a conversation at the deanry of Durham, the day appointed for the birth-day. Ravensworth recollected nothing at all of it. They went to the club together, and Ravensworth went the next morning to see his mother in the neighbourhood, with whom he staid till Monday; but this thing of such consequence lying upon his thoughts, he returned to Newcastle. He and Fosset had another conversation, and in endeavouring to refresh each other's memory about this dreadful delinquency of Johnson, Fosset said, he could not recollect positively, at such a distance of time, whether Johnson drank those healths, or had been present at the drinking them, but that Murray and Stone had done both, several times. Ravensworth was exceedingly alarmed at this, with relation to Stone, on account of his office about the Prince; and thus the affair of Johnson was quite forgotten, and the episode became the principal part. There were many more conferences between Ravensworth and Fosset, upon this subject, in which the latter always persisted, that Stone and Murray were present at the drinking, and did drink those healths. It may be observed here, that, when he was examined upon oath, he swore to the years 1731 or 1732 at latest. Fosset comes up, as usual, about his law business, and is examined by Messrs. Pelham and Vane, who never had heard of Murray or Stone being named: he is asked and answers, only with relation to Johnson, never mentioning either of the others: but the love of his country, his king, and posterity, burned so strong in Ravensworth's bosom, that he could have no rest, till he had discovered this enormity. Accordingly, when he came to town, he acquainted the ministry and almost all his great friends with it, and insisted upon the removal of Stone. The ministry would have slighted it, as it deserved; but as he persisted and had told so many of it, they could not help laying it before the king, who, though he himself slighted it, was advised to examine it, which examination produced this most injudicious proceeding in parliament. The duke of Devonshire was the only one of the committee, who was absent from the House. The ministers, and indeed, every body else, did imagine, and, I believe, still do, that this whole affair is combined with the resignations, and that there was a set of pretended friends to the Pelhams ready to take advantage of it; and, I know, that Mr. Pelham did think that this motion would give great lights to it. How far their expectations are answered, I cannot say; mine were entirely disappointed, for the whole was so ill conducted and supported, that I should almost be tempted to believe, that the grounds, which carried our conjectures into a sort of certainty, had no foundation at all.

"I waited on the princess, who seemed much pleased that the affair had ended so well in the House of Lords, and said, that it was owing to the king's steadiness and resolution, that it went no farther: that his majesty took it with good sense and proper firmness, without which

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his majesty to enquire into informations of a very material nature, relating to a Person in the service of their royal highnesses the prince of Wales and prince Edward, and the other persons mentioned in the course of the said Examinations, and likewise all letters and papers relative thereto, and the report made by their lordships to his majesty thereupon."

Which being objected to: after long debate thereupon; the question was put upon the said motion, and it was resolved in the negative.

*Debate in the Commons on the Bill to permit the Exportation of Wool from Ireland to any Port in Great Britain.**] March 26. On the motion for the third reading of the Bill "for permitting the Exportation of Wool and Woollen or Bay yarn, from any port in Ireland to any port in Great Britain,"

Mr. *Robert Viner* said:

Sir; as Ireland is united with us under the same sovereign, and really a part of the British dominions, I shall always concur in every thing that can be thought of for rendering it a happy and flourishing island, without doing a prejudice to the people of this kingdom; but, I hope the people of Ireland will forgive me, if I am against encouraging either their trade or manufactures at the expence of the trade or manufactures of England. I know that every gentleman who sits here, ought to look upon himself as one of the representatives of the people of Great Britain, and not of the particular county, city, or borough for which he was chosen; but I never heard, that we ought to look upon ourselves as the representatives of the people of Ireland, or of any other of the British dominions. It is therefore the duty of every gentleman who has the honour of a seat in this assembly, even though he may have been born or may have an estate in some of the British dominions beyond sea, to consider in the first place the interest and welfare of this kingdom: when a competition happens between the interest of those dominions and the interest of any foreign country, we are certainly bound to prefer the former; but when their interest happens to interfere with that of Great-Britain, we are as certainly bound to prefer the latter. This, I say, is our duty, and it is our duty not only as representatives of the people of Great Britain, but in common justice to the people we represent, because they have always borne, and do still bear much more than their proportional share of the public expence.

For this reason, Sir, I think it my duty to oppose the passing of this Bill into a law, because there never was, I think, a Bill brought into this House, which tended more directly to the ruin of the people of this kingdom, and to the starving of many thousands of our poor. There is not a landed gentleman or a farmer of this island, but must be hurt by it: and as to our poor who live by spinning, should this Bill be passed into a law, it will soon become impossible for them to earn their daily bread by that sort of labour; and very few of them, especially those of the female sex, can earn it by any other. What, then, must they do? They must come with their children, if they have any, upon the parish; and we all know, that every parish in England is already charged with a poors rate above what it can well bear: or otherwise they must sell themselves for servants to such as will be at the expence of transporting them to Ireland or our plantations in America; which will strip this country of such numbers of those who now assist our farmers in their hay and corn harvest, that it will be impossible for them to manage their farms.

These, Sir, are some of the most obvious consequences of this Bill; but as it consists of two distinct parts, to wit, that relating to the importation of wool, and that relating to the importation of woollen-yarn, I shall consider them distinctly; and first with regard to the importation of Irish wool: it is certain, that all the lands in England are higher rented than the

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the lords of the cabinet would not have behaved as they did. It is remarkable, that this is the first time, that I ever heard her speak favourably of the king. In mentioning my reasons for having an opinion of Mr. Stone, without having any friendship with him, I said, that from thence I was glad when I heard he was placed about the Prince. She replied, she was not; on the contrary, she was very sorry, and much alarmed at it. I was surprised, and asked why? She answered, because the Prince had always taught her to believe, that Stone was a Jacobite, and that she did firmly believe it: that the Prince was convinced of it, and, when affairs went ill abroad, used to say to her in a passion, how could better be expected, when such a Jacobite as Stone was trusted?" Dodington's Diary.

* From the London Magazine.



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lands in Ireland, and that the expence of agriculture in England by reason of our numerous taxes, far exceeds that in Ireland; consequently the farmers in Ireland may sell their wool at a much cheaper rate than those in England can possibly do. Is it not then a necessary consequence, that we must either diminish our rents, and abolish most of our taxes, or that all our farmers must in a few years become bankrupts? But our taxes we cannot abolish, because they are all engaged either for the payment of the public debt, or for the necessary support of our government even in time of peace. A diminution of our rents then, and a very considerable one too, is the only method we can take for preventing the bankruptcy of our farmers. But can our landed gentlemen bear this? They must continue under the same assessment: they must continue to pay 2*s.* in the pound land tax, in time of peace, and 4*s.* in time of war, according to that assessment: is this shewing the same regard to the landholders in this island of whom we are the representatives, as to the landholders in Ireland, of whom we are not the representatives? And the partiality is the more glaring, the more cruel, as the latter are neither subject to an assessment nor to a land tax.

Sir, if this Bill should pass into a law, it may be supposed that some of our rich landholders, who are not very highly assessed towards the land tax, and who have penetration and foresight enough, will presently begin to lower the rents of all their farms, which have any sort of sheep walk, but the far greatest part neither can nor will; the consequence of which must be, that all such farmers will soon be undone, and at last the landlords will themselves be undone, by having most of their farms thrown upon their hands; for every one who has ever met with such a misfortune, must be convinced, how little a gentleman can make of any farm while it is in his own hands. Even a farm which consists chiefly in sheep walks, requires more skill than most gentlemen are capable of, and more care and expence than any gentleman will chuse to be at; for a sheep is a very tender sort of creature, and liable to many accidents, which prove fatal if not prevented by due attention; and every one knows, that the lower sort of people are more apt to be both negligent and wasteful, when they serve a gentleman, than when they serve a common farmer. And as to the expence, however small it may be in the summer time, it becomes very heavy in the winter, especially if the winter be any way severe, and the sheep taken such care of as to prevent their wool from being spoiled, besides which, there are several articles of expence necessary for the improvement of the wool; for in my country, where some of the best wool in England is produced, it is very common for a farmer to give 20 guineas for a fine tup or ram, in order to improve his breed of sheep; but if the price of our wool should be beat down by the importation of Irish, none of our farmers will be able to afford giving such a price, and therefore I must suppose, that our wool will decrease daily, not only in quantity but fineness.

From what I have said, Sir, it is evident, that this Bill, if passed into a law, will very much hurt every landed gentleman and farmer in Great Britain, and as to our poor who live by spinning, they must be utterly undone; for if we consider the many taxes we have in this country upon the necessaries of life, such as the malt tax, the salt tax, the tax upon leather, upon soap and candles, and upon several other things, which affect the poor as well as the rich, and which neither poor nor rich are subject to in Ireland, we must conclude, that it is impossible for the poor to live here at so cheap a rate as they may do in Ireland. Let me then suppose, that a poor woman in this country may earn 6*d.* a day by spinning, and that this is the least she can require for furnishing her with the coarsest sort of food, lodging and apparel: I may then most reasonably suppose, that a poor spinner in Ireland may live equally well for a groat a day, and if she be equally skilful and industrious, she may consequently sell as much yarn for a groat as the other can sell for 6*d.* which is just 50 per cent. difference. Can we then suppose, that any manufacturer in England will purchase an ounce of English yarn, whilst there is any Irish yarn to be got? This, I think, is demonstration; and to talk in mathematical terms, the corollary plainly deducible from hence is, that most of our poor who now live by spinning, will transport themselves to Ireland or to our plantations in America, from whence many fatal consequences must necessarily ensue both at home and abroad. At home, as I have already hinted, it will bring great distress upon our farmers; for during the hay and corn harvest, many of these poor people employ themselves in that sort of labour,

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and during the rest of the year they support themselves by spinning: but when they are all gone, our farmers will often suffer greatly by a want of hands. Another fatal consequence will ensue here at home, which, I hope, some gentlemen on the other side of the House will attend to: it will considerably lessen the public revenue; for if the support of a poor spinner costs 2*d.* a day here more than it does in Ireland, I must reckon that the whole of this difference goes some way or other towards the public revenue, and amounts to 3*l.* and 10*d.* per annum; therefore, if in a few years after the passing of this Bill, 10,000 of these poor people should be driven out of the kingdom, it would be a loss of near 30,500*l.* per annum to the public revenue, which is a loss it cannot at present well bear. But the greatest misfortune, in my opinion, that will ensue here at home, from our rendering it impossible for poor women to support themselves by spinning, is, that it will discourage matrimony among all sorts of our poor: at present a ploughman, or a journeyman in any mechanical sort of business, may venture to marry, because he knows that his wife may support herself by spinning, and that even his children may in a few years learn to support themselves by the same means, without being any charge to him; but if you take this mean of subsistence away, it will hardly be possible for a poor woman to find any other, and consequently few such men will ever venture to marry.

Now, Sir, with regard to those fatal consequences that must happen abroad: I do not mean, that any consequences can happen that will be fatal to Ireland, or to our plantations in America; but I mean, that such consequences will happen there, as must be fatal to this country; for after we have driven our fine spinners of woollen yarn to those countries, they will certainly set up all sorts of fine woollen manufactures, and will at least supply themselves, which will of course prevent the sale of any of our manufactures, either in Ireland or in our plantations, and consequently diminish the quantity of those worked up here at home, which will drive a great many of our manufacturers, as well as our spinners, out of the kingdom. I know that we have prohibited the exportation of any woollen yarn, or any woollen manufactures whatsoever, from Ireland to any foreign parts; and I likewise know, that we have laid the same prohibition upon our plantations in America; but we have never yet prohibited their working up any sort of manufactures for their own use, nor do I think that we ought ever to do so; and from our bills of entry we may learn, what a loss it would be to this kingdom, should they once fall into a way of supplying themselves with all sorts of woollen manufactures, which may very probably be the consequence of our driving all our spinners of fine woollen yarn over to those countries.

But suppose, Sir, that we could pass such a law as this without the apprehension of any danger, yet the present is a very improper time for it. The late mortality among the horned cattle, which, I am sorry to say, is far from being yet ceased, has obliged many of our farmers to stock their farms with greater numbers of sheep than they ever did before; so that there is more wool now growing in this kingdom, than they can probably find a vent for at what they call a living price; and though we had, during the late war, and for some years after the peace, a pretty brisk sale for our woollen manufactures in foreign parts, which increased the demand for our wool, and encouraged our farmers to increase their stocks of sheep, yet most merchants are of opinion, that this extraordinary sale for our manufactures abroad is now over; consequently we never had less occasion for a supply of wool or woollen yarn from Ireland than we have at present, nor was there ever a time when it would have been so detrimental to the farmers and the poor spinners of this kingdom. Therefore I cannot, at this critical time, give my consent to the passing of this Bill.

Sir *William Yonge:*

Sir; I should not much wonder to hear of this Bill being disliked by the populace, that is to say, by the very lowest sort of our people, for none of them understand the true interest of their country; and in every county and town in England the labouring people of every trade and occupation, and the low dealers in every commodity, are for confining the labour or the sale to themselves alone, and are very angry if any one they call a foreigner, by which they mean a person not born in their town, comes to interfere with them. To this selfish monopolizing spirit we owe what are called the privileges of many of our cities and boroughs, of which they are so tenacious:

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to this we owe the frequent mobs we have had amongst our hay-makers here about London against the Irish; and to this we owed the late riots among the journeymen hatters in Southwark. This, I say, I am no way surprised at; for though these people know nothing of the general interest of the kingdom, they very well understand their own interest, and know, that the fewer labourers there are in their way, the higher wages they may insist on, or the fewer retailers there are of the commodity they deal in, the higher price they may exact, the more easily they may enter into a combination for raising their wages or their price. But as there is no maxim in trade more evident, than that the lower the price of the materials and the labour is with regard to any sort of manufacture, the cheaper it may be sold, and the cheaper it is sold the more of it may be exported, I am surprised to find this Bill opposed by a gentleman of such good sense, and so much public spirit as the hon. gentleman who spoke last.

To find the least shadow of reason, Sir, for opposing this Bill, several postulatums must be taken for granted, which are contradicted by every day's experience: as first, it must be taken for granted, that our farmers cannot possibly sell their wool near as cheap as the farmers in Ireland may and do sell theirs: secondly, that our spinners cannot possibly sell their labour near so cheap as the Irish spinners do theirs: and, thirdly, that it is impossible for us to increase the sale of our woollen manufactures in foreign parts. The first two of these, the hon. gentleman was forced to take for granted, but I must beg leave to differ from him in both; for as to our wool, notwithstanding our high rents and heavy taxes, our farmers have such a high price, and such a ready sale, for every thing else they can produce in their farms, that they may sell their wool as cheap as the Irish farmers can theirs; at least, if there be any difference, it will be more than compensated by the charge of transporting the wool from Ireland, and paying commission for the sale of it here. And as to spinning, if our spinners will submit to live as frugally as the spinners do in Ireland, which they will certainly do rather than be transported, they can be but very little affected by any of our taxes; for they would then use very little salt or small beer, and the taxes upon both are so very moderate, that they could scarcely be felt. Then as to shoes, they can make but very little use of them, and consequently could not be affected by our tax upon leather; and as to our taxes upon soap and candles, they can never much affect them, because they do not wash the yarn they spin, nor do they in country places make use of candles but of lamps. In short, I do not think that the expence of living to a spinner in England, could be half a farthing a day more than in Ireland; for though we have, it is true, more and much heavier taxes than they have in Ireland, yet all our heavy taxes are such as affect the rich only, or such of our poor as do not live in so frugal a manner as they might and ought to do. Therefore, considering the charge and risk of bringing woollen yarn from Ireland, I do not think it can be sold so cheap here, as our spinners or those that employ them may afford to sell what they spin. The consequence, indeed, of importing Irish yarn, may perhaps be, that it will oblige our spinners to live more frugally, and to sell their yarn cheaper, than they do at present, which is a consequence that, instead of being dreaded, ought to be wished for, especially considering the rival we now have in woollen manufactures at all foreign markets.

This, Sir, brings me to the third postulatum necessary for founding an opposition to this Bill. Will any man of common understanding say, that if we could drive the French and the Dutch entirely out of the woollen manufacture trade, we could not work up and export a much greater quantity of woollen manufactures than we do at present? Sir, if we could do this, I will be bold to say, that we should have occasion for all the wool that could be produced, and all the woollen yarn that could be spun, both in Great Britain and Ireland; and that our manufacturers could soon afford to give a higher price for both than they now sell for either in Great Britain or Ireland. These two countries are the chief rivals we have for woollen manufactures at all foreign markets, and yet when I consider their circumstances, I am amazed how they ever came to be so. In France, their poor are as heavily loaded with taxes as the poor are in England: In Holland, they have more and heavier taxes upon the necessaries of life than we have in this country: in both, their manufacture is chiefly supported by the wool which is by stealth carried to them from Great Britain or Ireland; so that they must pay a much greater price for it than

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it sells for in either of these islands; and yet they sell their woollen manufactures at all foreign markets rather at a lower rate than ours can be sold for. There must be some fault either in our people or our public conduct. I, indeed, believe it is part of both. Our poor people will not live so penuriously or labour so cheap, as the poor do in France or Holland; and all our middle standers, between the wool-grower and the foreign consumer, insist upon a higher profit. Then with regard to our public conduct, I am apt to believe, that the establishment of the woollen manufacture in France, and the continuance of that in Holland, was chiefly owing to our prohibiting the export of any woollen manufactures from Ireland in 1699, without doing at the same time what is now proposed to be done, that is to say, without opening every port both in Ireland and Great Britain, for the exportation of wool and woollen yarn from Ireland to Great Britain.

At that time, Sir, there was a flourishing woollen manufacture in Ireland, and much more than sufficient for supplying themselves, so that by this prohibition a vast number of spinners and manufacturers of every branch were thrown out of employment; and as it was then a time of peace with France, and numbers of French ships always in the Irish ports, they were ready to carry every one of these people that offered to France at free cost. By this means the French supplied themselves with expert spinners and other manufacturers of all kinds; and as no wool, woollen yarn, or woollen manufactures could then be exported but from a few ports in Ireland, nor imported but at a few ports in England, and were besides liable to pay high duties upon importation here, the people of Ireland could find no vent for a great part of their wool and woollen yarn, but by selling it in a clandestine and unlawful manner to the French. I shall not find fault with the prohibition then made; but surely I may say, it was made at an improper time, and that we ought at the same time to have given them full liberty to have imported, at least their spare wool and woollen yarn into England, without paying any duty. It is really surprising that those useful materials should have been allowed to remain liable to high duties upon importation here, until the 12th of his present majesty; and I think it equally surprising, that such a Bill as this has not been long since passed into a law; for until that year it was hardly possible for the people of the greatest part of Ireland to send their wool or yarn to England, without first carrying it several score miles by land; because there was not a port from whence it could be exported to England, upon the whole southern coast of Ireland westward from Kinsale, nor any one upon the western or northern coast of Ireland, nor upon the north-east coast southward as far as Drogheda; and when they had with so much difficulty and expence legally embarked it for England, they could not land it in this kingdom but at such ports where there was probably no demand for it, nor without paying such high duties as made it impossible for them to sell it to any advantage; and this prohibition was the more grievous, as they were then and still are prevented by a standing law, made in the reign of Charles 2, from importing into England any of their cattle, sheep, swine, beef, mutton, lamb, pork, butter or cheese; nor would they have been allowed to import bacon, if we had not laid an additional tax upon it in 1692.

Thus, Sir, at the same time, that by a law of our own making, we furnished France with a great number of woollen manufacturers from Ireland, we laid our fellow subjects in Ireland under a necessity to furnish our enemies the French with wool and yarn for the employment of those manufacturers, and with provisions for their support, at a cheaper rate than our manufacturers here at home could have such materials or such provisions, while at the same time we were rewarding our people here in England for furnishing them with bread; for notwithstanding the general famine at that time, our bounty upon the exportation of corn was suspended only from Feb. 10, 1698, to Sept. 29, 1700. From hence I leave gentlemen to judge, whether we have not by our own act and deed very much contributed towards enabling the French to rival us in the woollen manufacture; and it must be confessed, they have been very careful to make all possible advantage of our misconduct. They have, for many years, given great encouragement both to masters and servants in the woollen manufacture, and to such as would run the risk of carrying them wool from England or Ireland; for though they have a great deal of wool of their own, and may have large supplies from Germany, it is so coarse that no tolerable manufacture can be made of it

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by itself alone; but with a mixture of English or Irish wool, it makes a tolerable sort of cloth; and as to all their fine woollen manufactures, they are made up entirely of English or Irish wool, or of that wool with a mixture of Spanish. This affair I have been diligently examining into for these 30 years, for which purpose I had sent me from France a pattern of every sort of cloth they make, with an account what sort of wool each respective pattern was made of; and I once met with a gentleman so well skilled in their manufactures, that from the pattern itself he told me, without being once mistaken, how much English or Irish wool was in the composition, the coarsest of which had a mixture of at least one third part of such wool.

This, Sir, is, I think, a demonstration, that if we could prevent any wool from being clandestinely carried from Britain or Ireland to France, we should put an end to their rivalship in the woollen manufacture, and by the same means we should put an end to that of the Dutch; and if we could do this, gentlemen may easily see that the importation of Irish wool, or woollen yarn, would be far from lowering the price either of the wool, or the woollen yarn of Great Britain. But this we have been attempting to do by a method which nearly 100 years experience might have shewn us to be by itself alone ineffectual: that is to say, by prohibiting the exportation of wool or woollen yarn under severe penalties: I am far from supposing that this method ought to be altered or neglected; but it will not do by itself alone; and the only additional method we can think of, is that of allowing wool and woollen yarn to be carried easily and freely from any part of our own dominions to any other; for when every sort of monopoly is abolished within our own dominions, we shall certainly be able to work our own wool up into cloth, at a cheaper rate than it can be worked up in any foreign country; and this will likewise be the most effectual method for confining the weaving and finishing our woollen manufactures to this island; nothing being more evident than that our allowing the Irish to import their wool and woollen yarn freely into Great Britain, will rather prevent than encourage them to set up any manufactures of fine cloth, even for their own use; and the argument holds equally strong with respect to our plantations in America, should they ever be in a condition to produce either wool or woollen yarn.

I hope I have now shewn, that this Bill can produce none of the frightful consequences that have been mentioned: on the contrary, Sir, I think, that as it is the most proper method we can take for putting an end to the woollen manufactures both of France and Holland, and ingrossing, in a great measure, the whole woollen trade to ourselves alone, it will increase the price of our wool and woollen yarn in this country as well as Ireland, and also the number of spinners in both; and consequently, that it will contribute towards raising the rents of all the lands in Ireland, without diminishing any of those in Great Britain, therefore I hope it will be passed into a law.

Mr. *Thomas Whichcot:*

Sir; the advocates for this Bill are very much in the right to insist upon it, that the wool and woollen yarn of England may be sold as cheap as the wool and woollen yarn of Ireland, and that by this Bill we shall in a great measure put an end to the woollen manufactures of France and Holland; for if there were any truth or probability in these two prophetic facts, I should be as strenuous an advocate for the Bill as any gentleman. But as I am fully convinced of the contrary with respect to both, I must be against its passing into a law. I think it is next to a demonstration, that until the rents and the taxes in England be reduced as low as they now are in Ireland, or those in Ireland raised as high as they are at present, or may hereafter be, in England; that is to say, until the rents and the taxes be brought to a perfect equality in the two countries, it is impossible for our farmers to afford selling their wool, or our spinners their woollen yarn, near so cheap as the same commodities may be sold in Ireland. Our farmers who live near London, or any of our great cities, have, indeed, a ready sale, and a pretty good price, for every thing they can produce upon their farms; and every one knows, that their rents are higher in proportion. But as to our farmers who live at a distance from any great city, they have no sale at all for any thing that cannot be kept, and easily transported from their farm to a distant market: therefore from those things only, of which wool is one, and in many farms the chief, they must make up their high rents; and consequently can sell none of them so cheap as they may be sold by farmers who do not pay near so high a

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rent; or if they should be obliged to lower the price upon one sort of produce, such as wool, they must raise the price proportionably upon all the rest, such as corn, cattle, butter, cheese and the like; and what sort of an effect this would have upon our spinners, manufacturers, and all other tradesmen, every gentleman may easily see.

But even with regard to our farmers, Sir, it is not the high rents only, but also the taxes they and their servants pay, that contributes towards rendering it absolutely necessary for them to sell every produce of their farm at a higher price than they might otherwise do. And as to our spinners, and all other working people or labourers, we should consider, that they not only pay the taxes upon the necessaries they themselves make use of, but they contribute towards the payment of the taxes that are paid by all those concerned in producing, manufacturing, selling and retailing those necessaries: for example, they not only pay the tax upon the leather of which their shoes were made; but they contribute towards payment of the taxes paid by the shoemaker and his servants that made them, by the tanner and his servants that dressed the leather, by the farmer and his servants that produced it, and by every one that were concerned, either as master or servant, in the sale and retail of that leather, from the producer to the consumer; and all these again contribute towards the taxes that are paid, or contributed towards, by the spinners of the yarn of which the clothes they wear are made. It is the same with respect to small beer; for I hope, the advocates for this Bill will deign to allow our British spinners a little small beer: they not only pay the malt-tax and the excise for all the small beer they drink, but they contribute towards the payment of that and all the other taxes that are paid by the farmer who produces the barley and hops, by the maltster who makes the barley into malt, the miller who grinds it, the brewer who brews it, and every one concerned in the sale or retail of the malt, hops, or small beer; for I must observe that few, if any, spinners brew their own small beer: they generally have it from the brewer or more frequently from the chandler's shop; and as every tax raises the price of the commodities above twice as much as the tax amounts to, if we allow a spinner but a quart of small beer a day, which is but one third of what we allow our idle soldiers at free cost, the excise alone will amount to double what an advocate for this Bill has computed to be the difference of the expence of a spinner's living in England or in Ireland, supposing they were never to taste one drop of strong beer, or any other sort of comfortable liquor, so necessary in this moist and cold climate. It must therefore be a very erroneous calculation to suppose that this difference does not amount to above half a farthing a day, considering the multitude of taxes which even the poorest sort of our people must pay, or towards which they must contribute in proportion to what they consume; for they cannot have a lodging without contributing towards the tax upon houses: in most places of England they cannot have a fire without paying a tax upon the coals they burn; and even the greatest part of the oil they burn in their lamps they must pay a tax for, besides contributing towards the taxes paid by those concerned in the importation, sale, or retail of it.

Thus, Sir, from what I have said gentlemen may see, that the effect of our taxes is really a sort of circle: it goes round and round from the producer or importer, through every intermediate operator, to the consumer, and back again, by the same path, from the consumer to the producer or importer; and this circle may most properly be called a magic circle, not only because of the marvellous effects it produces, but because we were drawn into it by delusion, and, I fear, shall never get out of it, by any assistance that is not more than human. It is this circle which we have been deluded into, that has enabled the French to become, and the Dutch to continue to be our rivals in the woollen manufacture; for whatever their taxes may be, whatever methods they take to raise them, it is certain, that in both these countries the poor working people may live at a cheaper rate, and do work for less wages, than such people may or do in England. We may ruin our farmers, we may beggar our spinners, by the importation of Irish wool and yarn; but whilst we are in this magic circle, we shall never be able to put an end to the woollen manufacture, either in France or Holland. On the contrary, it is my opinion, that by this Bill we shall increase it in both; for we shall divert the Irish from the linen manufacture they are now engaged in: instead of employing their lands in the production of hemp and

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flax, they will turn them into sheep-walks; and instead of spinning linen yarn, their spinners will turn themselves to the spinning of woollen. By this means they will greatly increase their quantity both of wool and woollen yarn; and as both now do, and always will sell in France for near double the price they sell for in England; they will smuggle into France a great deal more than they do at present, especially as we shall by this Bill render it more easy for them to do so; for the more ports there are in Ireland towards which wool or yarn may be conveyed under pretence of sending it to Great Britain, the more easily it may be smuggled on board some ship bound to France; and the more ports there are in Britain to which it may be conveyed, the more safely these smuggling ships may sail to France or Holland, as it is impossible for our guard-ships to search every ship they come in sight of upon any part of our coast. And in time of war, it will be impossible for us to prevent the French from having as much of the Irish wool and yarn as they please, by a connivance between the Irish merchants and their countrymen settled in France, in order to have the ships they load with wool at some bye-port for England, seized soon after their sailing by a French privateer.

I am therefore convinced, Sir, that by this Bill we shall ruin our own people, without doing any prejudice to the woollen manufacture either of France or Holland; and this our people seem already to be sensible of, for though the Bill has been hurried through this House with great precipitation, it has already occasioned mobs and riots among the manufacturers in several parts of the country, as at Norwich and several other places, particularly at Bradford, where the mob was so outrageous that they were forced to send for two troops of dragoons to keep them quiet, a method for keeping the peace which may sometimes be necessary, but every gentleman must grant, that we ought as much as possible to avoid every thing that may reduce us to the necessity of making use of this method. If this Bill be in itself right, and necessary for the public good, there can be no greater hurt in putting it off to another session, and ordering it to be printed, that the people may have time to consider it; for however selfish some of the lower class may be, the sensible men among them understand the true interest of their country as well, and have, I believe, as great a regard for it, as some of their betters. By them the rest will always be governed; and therefore if it be right, give them but time to consider it, and they will approve of it, which they are far from doing at present; for if the Bill had not been so hurried, I am persuaded, we should have had petitions from every county in England against it.

In those petitions, Sir, they would have told you, that it is not the high price which the farmer has for his wool, that makes it come so dear to the manufacturer, but the high profit which the wool-staplers insist on; and that this profit they have raised, and still keep up, by a sort of combination among them. By this combination they beat down the price to the farmer so low, that the producing of wool is hardly worth his while, if his farm will produce any thing else; and they raise the price to the manufacturer so high, that he can get but very little profit by the sale of his cloth. By this means these wool-staplers, who are but a sort of brokers, make great estates, some to the amount of 20, 30, or 40,000*l.* whilst neither the farmers they buy from, nor the manufacturers they sell to, can get sufficient to provide for their families. We have many laws, Sir, for preventing combinations amongst poor workmen, but few, if any, for preventing combinations amongst the rich masters that employ them: the one I take to be as necessary as the other; and I wish we would begin with contriving some proper and effectual law for preventing any sort of combination among our wool-staplers. If we can do this, and at the same time abolish some of our most burthensome taxes, we shall have no occasion for the free importation of Irish wool, or at least for the free importation of Irish yarn, which, in my opinion, is one of the most pernicious things we can think of; for the yarn costs more than all the other parts of the manufacture, and consequently it is giving away from the people of Great Britain more than one half of the profits of our woollen manufacture, which ought not, I think, to be done by the parliament of Great Britain.

Mr. *Horatio Walpole*, sen.

Sir; I am afraid that many gentlemen look upon the present debate as a dispute or competition between the people of Ireland and the people of Great Britain, and by considering it in this light, I do not at all wonder at their allowing to every argument against the Bill more weight, and



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to every argument in favour of the Bill less weight, than it should have. This is a commendable partiality, if the dispute were such as they conceive it to be. But the dispute or competition is really between the people of Great Britain and people of France, which of us shall have the spare wool and woollen yarn produced in Ireland, above what the people there have occasion for to answer their home consumption. If gentlemen would consider the present debate in this, which is the true light, I am convinced their partiality would be upon the opposite side to what it is at present, and in that case we should have had no debate, for the Bill would have met with an unanimous concurrence. In Ireland as well as in England, there are large tracts of country which are fit for nothing but sheep-walks: in Ireland as well as in England, the poor will employ themselves in spinning woollen yarn rather than sit idle and starve; for they cannot all be employed in spinning linen yarn, or any other sort of business. The necessary consequence is, that more wool and more woollen yarn will always be produced in that country than their home consumption requires: what can they do with the surplus? We have prohibited their exporting any sort of woollen manufactures: we have likewise prohibited their exporting to foreign parts any of their wool or woollen yarn; and have moreover laid them under great difficulties with respect to exporting it to England. The prohibition, Sir, is like the prohibition against exporting gold or silver in Spain and Portugal: it is impossible to prevent it; for where the course of trade makes the exportation absolutely necessary, or extremely advantageous, for those that have it, no severity of law, no rigour in the execution can prevent it: it only raises the price to the purchaser. The Irish find that they can make no advantage by working up and exporting their woollen manufactures either openly to England, because of the duties, or clandestinely to any foreign port, because of the high duties laid upon them at every such port; but all countries except this receive their wool and woollen yarn at every port, and without any duty or difficulty; and as France is the country to which they may export clandestinely their wool and woollen yarn with the greatest ease and most advantage, we may assure ourselves, that all they can spare will be carried thither, unless we open an easy and free importation for it here.

The reason, Sir, that makes the French so fond of, and pay so high a price for Irish wool and yarn, is because with one pound of it they can work up two pound of their own, into a sort of cloth that is not only fit for their own quality, but saleable at a foreign market; whereas, if they could procure no such wool or yarn from Britain or Ireland, they could not of their own wool alone make any sort of cloth that would be fit for either of these purposes. From this consideration every gentleman must see, how much our exportation of woollen manufactures might be increased, if we could prevent the French from having any wool or woollen yarn from Britain or Ireland; and in my opinion, the only effectual method for doing this, will be to open an easy and free importation for both from Ireland to Great Britain. By this means we shall remove the necessity which the Irish are now under to sell their wool and yarn at a low price to those who clandestinely export it to France, which will not only greatly lessen the quantity so exported, but raise the price of it so high to the French, that it will become impossible for them to rival us at any foreign market.

This, Sir, is a consequence that, I think, must necessarily ensue from our opening an easy and free importation of wool and woollen yarn from Ireland; and it is a consequence so desirable, that it is surely worth our while to try the experiment. I should be sorry if I thought, that our farmers could not possibly sell their wool, or our spinners their woollen yarn, as cheap as either the wool or woollen yarn of Ireland could be sold here, after paying freight, insurance, commission, and several petty charges, which the importation must always be attended with. But if it should upon trial appear to be so, we must either lower our rents, or alter our method of taxation, by abolishing all the taxes that any way affect the poor, and augmenting those that affect the rich only; for it would be better, even for our landed gentlemen, to pay a constant tax of 4*s.* in the pound, than to suffer the French to worm us out of our woollen manufacture; because they would in that case find a diminution in their rents, far exceeding 4*s.* in the pound. However, I am under no apprehension of our being reduced to any such necessity, for two very substantial reasons: first, because I am convinced, that both our farmers and spinners may always afford to sell their wool and their yarn as cheap as



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the Irish wool and yarn can be imported and sold here; and as to yarn, I think, I am founded on experience; for though a free importation of linen thread and yarn from Ireland, has been allowed ever since 1696, yet it has not diminished the spinning of such in this island, but on the contrary the spinning of both has increased very much since that time. And my second reason is, because I am convinced, that by allowing a free and easy importation of Irish wool and yarn, and thereby depriving the French of the chief support of their woollen manufacture, the price both of British and Irish wool and yarn will in a few years rise above what either sells for at present. The importation of Irish may for the first year or two lower the price here; but in that time the exportation of our woollen manufactures will increase so much, and there will be such a demand for all the wool and yarn that can be produced here, or imported from Ireland, that the price will soon mount up to above what it is at present.

Now, Sir, after what I have said, I think, I need not enter into any minute consideration as to the effect of our high rents or taxes; for if the price of wool and woollen yarn here be not diminished, we shall only enable the Irish farmers and spinners to live better, without obliging the British to live worse, than they do at present; and as to the difference between a poor spinner's living in Britain or Ireland, what I have observed with regard to linen yarn, is a proof from experience, that it is not so considerable as some gentlemen imagine. Then, as to our farmers and their wool, I think no better argument can be offered in favour of this Bill, than what an hon. gentleman who spoke against it, told us of our wool-staplers; for to prevent combinations among the dealers in any particular commodity, there is no way so effectual as that of increasing their number, which we shall certainly do by this Bill; because at almost every one of our ports, there will be some person established as a factor for the Irish wool, and he of course will apply himself to the buying and selling the British wool produced in his neighbourhood, which will effectually put an end to the combination, if there be any, amongst our present wool staplers.

And as to this Bill giving a greater latitude for smuggling wool and yarn to France from Ireland, I was surprised, Sir, to hear it insinuated by any gentleman who has considered the regulations established by the act of the 12th of his present majesty, and that of the 11th of king William; for by the former no wool can be put on board any ship but such as have been registered for transporting of wool from Ireland to England, nor at any place but some lawful quay appointed by the commissioners of the customs in Ireland; and by the latter any person may seize and carry to the king's warehouse all such wool and woollen yarn, as shall be laid on board any vessel, or laid on shore at or near the sea, or any navigable river, with intent to be exported to foreign parts, which intention will certainly be presumed, if the wool has been brought from any distance, unless it be near a lawful quay, and a registered ship there ready to receive it on board. To this I must add, that the commissioners of the customs in Ireland will certainly increase the number of their officers: and it will not surely be said, that increasing the number of watchmen gives a greater latitude to thieving, especially when these watchmen may always make more by their fidelity than they can by their treachery. But what I depend most on, is an alteration in the temper of the people of Ireland themselves; for when they become sensible, that both their wool and yarn may be freely transported from any port in Ireland to any port in Great-Britain, and find that they may have a higher price for both than they used to have from the French smugglers, they will all become zealous against allowing any clandestine exportation to foreign parts; an instance whereof, a noble lord told us, has already happened at Cork in Ireland.

As to this Bill having been hurried through the House, the hon. gentleman who said so, did not certainly consider the time when it was moved for, which was February the 27th, so that it will be a full month to-morrow since it was moved for; and such a short Bill, which has been a month in passing through this House, cannot surely be said to have been hurried; nor do I believe it either has, or ever will occasion any mobs among the people: the late one at Norwich was occasioned by a combination among the workmen to raise their wages; and very probably the riots at Bradford, and other places, were owing to the same cause; for all sensible farmers, and all masters of manufactures must approve of this Bill; and the mob never consider any thing that does not immediately affect them, which this Bill certainly does not at present, and I be-

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lieve never will, as I have shewn that the exportation of our manufactures will probably increase, and consequently the wages of all workmen in that way will rise, or greater numbers of them will be employed, which is a consequence every British subject ought to wish for; and therefore I am for the Bill's being passed into a law.

The Bill was then read a third time and passed.

*Debate in the Commons on the Bill for Registering the Number of the People.**] March 30. Mr. Potter brought in a Bill "For taking and registering an annual Account of the total number of people, and of the total number of marriages, births, and deaths; and also of the total number of poor receiving alms from every parish and extra-parochial place in Great Britain." Upon this occasion,

Mr. *William Thornton* said:*

Sir; I was never more astonished and alarmed since I had the honour to sit in this House, than I have been this day: for I did not believe that there had been any set of men, or indeed, any individual of the human species so presumptuous

* "A Bill, which had not the good fortune to pass into a law, made a great noise this session. It was, "For taking and registering an annual account of the total number of people." The great patron of this Bill, was Mr. Potter, son to the late archbishop of Canterbury, who was looked upon as no inconsiderable speaker in the House, and a man of more than middling abilities; but he was extremely positive, and somewhat conceited of his own parts. The arguments with which the motion, which was certainly an important one, was supported, are well worthy of a place in history, "That an annual register of the people, would produce many advantages of great importance, which could no otherwise be obtained. That it would ascertain the collective strength of the nation, and shew where the inhabitants are too numerous, and where they are too few. That when the exact number of our people is known, and not before, it might certainly be determined whether a general naturalization would be an advantage or a disadvantage to the nation. It would appear what number of men might, upon a sudden exigency, be levied for the army, and whether we gain or lose by sending our natives to settle colonies and plantations abroad, and troops and artificers for their accommodation and defence. That by pursuing this measure, we should gain a police, or a local administration of civil government, upon certain and known principles, the want of which has been long a reproach peculiar to this nation, the discouragement of industry, and the support of idleness." It was also alleged, that the parish registers, as they now are kept, are very defective, and so far from answering the purposes of the intended Bill, that they do not, in many instances, enable the suitors in the courts of justice to recover their right, when no other evidence is wanting. That the poor, notwithstanding innumerable regulations, are extremely expensive and burthensome, although they are still frequently suffered to perish of diseases and nastiness, of cold and hunger, and are often treated with cruelty and oppression.

"Thus, according to the advocates for this bill, it presented an immediate remedy for most political and civil ailments of the internal part of the constitution. But others were of a very different opinion, and thought that it would encrease them all. Besides the aversion that the English have to what looks like a general register and an imitation of French policy, it was urged, that the method in which this register was proposed to be kept, would give the enemies of the nation opportunities of knowing both the strength and the poverty of the public: that it would put it in the power of any future ill-designing minister, to carry into execution any scheme that may be subversive of public liberty: that by the construction of the Bill, it put most exorbitant powers into the hands of parish and petty officers of the peace, and that to carry it into execution, would cost the nation upwards of 50,000*l.* a year.

"All those, and several other arguments against the Bill, were enforced by Mr. Thornton, when it came into the House of Commons, where the patrons of it appeared to be so little solicitous about its success, that no party was formed against it; and in the first division, Mr. Thornton was the only member who divided against it. In the committee, fresh arguments were found necessary to be urged, particularly, that it would facilitate an equal assessment in raising the present taxes, and direct the legislature in imposing others when they should become necessary, and that it would ascertain the lineal descents and relations of families.

"To all this, Mr. Thornton very properly replied, that the Bill, as it was drawn up and explained, tended to make all the public service of the people coercive and not voluntary; and he mentioned, that the city (York) which he represented in the time of the late rebellion, had voluntarily raised by subscription 2,435*l.* and the county 31,640*l.* which they never would have done, had the purposes of that Bill been then in force. In short, the arguments against the Bill, upon consideration, appeared so strong, that they gained proselites every day; and in the second division, Mr. Thornton went out with two, then with 17 members, and the opposition in the

* From the Gentleman's Magazine.

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and so abandoned, as to make the proposal which we have just heard. It is, indeed, impossible that such infamy and such danger should be incurred by men, whose natural abilities at least are not contemptible, without a prospect of such gain as in their estimation amounts to an equivalent; and for this reason I cannot believe that the motives which they are pleased to assign are those from which they act: the hope of some advantage to themselves, can only urge them to perpetrate such evil to others; for, not to set any value upon the reputation or peace which they risk, it can never be imagined that they would molest and perplex every single family in the kingdom, merely to set a beggar to work, or determine any questions in political arithmetic.

But though a national aversion and disgust to any measure, be a sufficient reason against it, yet there are reasons against this of much greater importance; such reasons as prove that aversion and disgust to be well-founded. An annual register of our people, will acquaint our enemies abroad with our weakness, and a return of the poor's rate, our enemies at home with our wealth. Our enemies abroad are the Spaniards and the French, and our enemies at home are place-men and tax-masters; and I should ill deserve the confidence placed in me by my constituents, if I should concur to increase the knowledge or the power of either, which has, with equal assiduity and perseverance, been employed against us.

But, granting that some good purpose may be answered by the knowledge of our numbers, why is it to be returned to the board of trade? And why oftener than once in five years, after the manner of the Roman Census? Surely the Roman policy will afford a better model for the regulation of a free state than the French. But let not gentlemen be deceived by specious pretences, when the Census is once taken, a Lustrum will certainly follow; and, I hope, those who remember the arguments which were lately used to obtain a Bill for registering our seamen, will repress every attempt to repeat them with contempt and indignation.

Can it be pretended, that by the knowledge of our number, or our wealth, either can be increased? Is it not evident, that, to all good purposes, it will render them less effective? If we are suddenly pressed by a foreign enemy, or endangered by a rebellion, we must, to the utmost of our power, raise a force proportioned to the exigency, let the number upon the whole be what it will; for no evil is equal to the subversion of our state. To what end then should our number be known, except we are to be pressed into the fleet and the army, or transplanted like felons to the plantations abroad? And what purpose will it answer to know where the kingdom is crowded, and where it is thin, except we are to be driven from place to place as graziers do their cattle? If this be intended, let them brand us at once; but while they treat us like oxen and sheep, let them not insult us with the name of men.

As to myself, I hold this project to be totally subversive of the last remains of English liberty, and therefore, though it should pass into a law, I should think myself under the highest of all obligations to oppose its execution. If any officer, by whatever authority, should demand of me an account of the number and circumstances of my family, I would refuse it; and if he persisted in the affront, I would order my servants to give him the discipline of the horse-pond; nor would I fail to exert every faculty and power of my body and mind, all the influence which I derive from my fortune, or my attachments, to produce the same opposition in my neighbours, my tenants, and my friends. If I should struggle alone in so glorious a cause, or if the mercenaries of oppression should prevail, I would immediate sell the little I possess, and spend the remainder of my days in some other country, where, if I am not more free, I shall not be a spectator of the ruin which I could not prevent, nor suffer the torment of perpetually comparing the present with the past. A tame submission to this yoke, will indeed prove that the spirit of our ancestors is departed, and has left us unworthy of our birthright; we shall deserve the canvas frock and wooden shoes, which will inevitably be put on. But, however degenerate some may be, I am still confident that without doors there are thousands who have not bowed the knee to Baal, and

course of the Bill's progress amounted to 57; which number, in the then state of parties, was looked upon as a very considerable minority. It passed, however, through the House of Commons with some amendment; but when it came into the House of Peers, it was thought to be of so dangerous a tendency, that it was thrown out upon a second reading." Tindal.

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who will not suffer his altars to be set up.

I know it is a fashionable complaint, that the people are become too licentious to be restrained by the present delegation of power, and, I believe, the complaint is true, but that which is proposed as a remedy, is indeed the cause. There is a certain limit, beyond which human authority can never be obeyed; to exceed this bound, is always to bring authority into contempt, and an effort still to enforce laws, by multiplying penalties, can only provoke indignation, and endanger the state. Let the laws therefore be few, such as human power can furnish sufficient motives to keep; the legislature will then preserve its dignity, and the people their independence; no power will be given to petty tyrants to oppress whomsoever they please, by prosecuting for offences, of which we are all become guilty, by the breach of laws which no man can keep.

It was the opinion of Solon, that the best laws ought never to be enforced against the general bent and inclination of the people, because they must necessarily produce greater evils than they can prevent. And, I hope, I shall not be censured for quoting the opinion of the Grecian legislator, by those who every day patiently listen, not only to the schemes, but the jargon of France: to talk in a British House of Commons of establishing a Lazaretto and a Police, is an insult, which he who does not resent it, deserves; is an offence, for which we want a name; and as much an enemy as I am to penal laws, I regret that we want a punishment. Cromwell disdained even to treat with the French ambassador in any language but Latin, and this is well accounted for by a late biographer: to have done otherwise, would have been adopting the language of our ancient enemy, and might introduce a conformity to their slavish constitution and modes of government.

It has been said that the Bill will encourage trade and industry. The encouragement which trade and industry will derive from French policy, will best appear by the manner in which the French king's tenants, or vassals, are treated, by the gentlemen whom I will for once, in compliance with the mode, call officers of the Police. To these vassals they make an annual visit, take an account of the produce of their industry, the income of the farm, and the number of the family: if the officer *de police* happens to be graciously inclined, he leaves them a small portion of what their labour has produced for their subsistence; but, if he is disposed to exercise his authority without favour, he sweeps away the whole for the king; and, in distant provinces, the sufferer is wholly without possibility of redress. It also sometimes happens that one of these gentlemen *de police*, upon hearing that a man's wife, or his child, wear better clothes than common, will return and tax them again, that nothing may remain for superfluous expence.

Let us not forge fetters for ourselves, and entrust them in the hands of those who urge us to the folly, in a foolish confidence that they will not put them on. Let us not invest any man with power, which is abused by those who possess it already. What assurance can we obtain that our own tax-masters will be more gentle than the French, when they have the same temptations to be severe? I am, indeed, surprised that the ministry do not declare against this Bill, since it must render them extremely unpopular, and, as it happens at the eve of a general election, may, in its consequences, embarrass and distress his majesty's government and councils; effects which, perhaps, those who appear in defence of this measure intended it should produce.

That I may leave nothing unanswered, which has been urged on the other side, I will admit that the parish registers are now defective; but it does not appear to me that we ought to render them complete at the annual expence of 50,000*l*. I believe the same purpose may be obtained upon more reasonable terms; and, if I thought any service was really intended to the poor of this kingdom, I could shew how it might easily and effectually be afforded; but as I firmly, and with good reason, believe the contrary, I will reserve my proposal for a fit opportunity. The present motion I am wholly against, and I hope my reasons have been sufficiently explained.

The Bill was then read a first, and ordered to be read a second time.

April 2. On the second reading of the Bill,

Mr. *William Thornton* said:

Sir; I had, some time ago, an opportunity to declare my suspicions, that the advocates for this Bill acted from motives which they did not then think fit to

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discover, and my suspicions are this day verified, though they were then treated as the dreams of a gloomy and discontented mind. We are now told, that the new Bill will direct the imposition of new taxes; and, indeed, the addition of a very few words will make it the most effectual engine of rapacity and oppression that was ever used against an injured people. This, however, we are told, is not the purpose of the Bill. The Bill may, indeed, hereafter, be of use, in some exigency of state, and for this reason should not be opposed; but it is intended only to gratify curiosity, and determine a controverted question.

The pretended purpose is, indeed, scarce less infamous than the real; and, I think, a stronger instance of the want of public spirit among us, and the mischief arising from the union of the executive and legislative power in this country, cannot be given, than that a measure, calculated to divest us of the last remains of our birthright, should be thought sufficiently justified, by being represented as something in which the public have no concern at all. Was a British House of Commons instituted, and a number of persons selected as representatives of the people, and sent, at a considerable expence, from the most remote parts of the island, to amuse themselves with determining speculative questions, upon a mere possibility, that in some future period of exigence and distress, the political arithmetician might calculate with greater facility, and the tax-gatherer exact the utmost farthing of a capitation?

Let it, for once, then be granted, that the representatives of the people are now busied about an act, in which the people have no immediate interest; and it will be easy to shew, that there cannot be a stronger reason against it, than that which has been urged in its behalf. To make any preparations for heaping new burdens on the shoulders of those who are already sinking, is cruel; and to meditate new arts, by which the generous and the loyal may be drained of that which remains, after the most liberal and cheerful contribution, is to aggravate cruelty by ingratitude: it is not to punish the body only, but the mind; it is to confound the coward with the brave, the liberal with the parsimonious. Who can enter as a volunteer, when every man is pressed into the service? And how can a prince discover his strength by the love of his people, when nothing is left them for a voluntary contribution, and all distinction is destroyed by universal coercion? In a late memorable instance, the city which I have the honour to represent, raised 2,435*l.* by a voluntary subscription, and the county 31,640*l.* besides associations, to discipline, to arm, and to pay a very considerable number of men, for the common defence: but if those friends of their country had been the numbered vassals of indiscriminating power, delegated to the refuse of the people, their honour would have been precluded, as their merit could not have been known; and the prince, in whose defence it was their glory voluntarily to pledge their fortunes and their lives, might have believed, that he had no friends but the small circle by which the access of every other was prevented, and that these monopolists did not exaggerate their own importance.

To effect this purpose, may, indeed, be their interest; but it can be the interest of no other; and as the Bill, whatever may be pretended, has evidently this tendency, I hope it will have no other abettors.

I am indeed talking in behalf of the people, to some who affect to hold them in the utmost contempt; though, by their suffrage only, they possess the power which they abuse; but when the creature of a court, who subsists by the salary and the perquisites of his place, affects to treat complaints of increasing the public expence, with an air of supercilious negligence, and declares himself inclined to every measure in proportion as it is displeasing to the nation, to the landholder, the merchant, and the manufacturer, upon whom his masters depend, my contempt and indignation are repressed only by his impotence, and, as I disdain expostulation, I want words for reproach.

Other reasons indeed have been offered, to induce a concurrence to this Bill; but are all equally odious and detestable. One gentleman was told, that it would assist in the establishment of a militia; another, that it would bring about a general naturalization: the rigorous clauses were never meant to be executed, and the people might receive just so much as they liked. But the advocates for this Bill did not appear with great zeal in behalf of a militia, when a plan was proposed, by which it might have been established, though to a general naturalization they might, perhaps, have been better inclined by more powerful motives. Nothing, however, can express greater wickedness and folly than

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such reasoning. Is it not wicked to enact a law, for which its advocates can find no better apology, than that it is not meant to be executed? And is it not foolish to imagine either that a legislature can long preserve its authority, when the people are suffered to keep, or to violate its prescriptions? or that any man will believe, that so much pains would be taken, to obtain a power, which it was not intended to use? or, that a perpetual opportunity of enriching the few, by the plunder of the many, will perpetually be lost? It will, however, appear by the Bill itself, that it was not intended to be a dormant statute. It prescribes, that the numbering of the people, and the return of the poor's rate, to the Board of Trade, shall be annual. That every omission, or neglect, of the officers appointed for this service, shall subject the party to exorbitant penalties, whether he be overseer of the poor, minister of the parish, clerk of the peace, or chief constable; and the penalty is doubled for every offence, though, for the first, it is, in some instances, 20*l.* and in none less than five. This surely has a greater appearance of practice than speculation, and will justify a few remarks on the extreme cruelty which it will produce. Overseers will be liable to these penalties, for not doing that which many of them have not the power to do. They are enjoined to take an account in writing; and it is well known, that in this kingdom, many hundreds are annually elected to that office, who are so far from being able to write, that they cannot read; neither can they always afford to pay those who can. The gaol, therefore, must, in a short time, be filled with industrious poor, who have incurred, by absolute necessity, a penalty which they can never pay, and whose families must inevitably be involved in their ruin.

But as the officers are thus stimulated to diligence, the people are not less awed to submission. The overseer is directed, by the Bill, to enter every house, taking to his assistance the constable, to demand an account of the number of persons who reside in it; and he is to distinguish, in a schedule, their ages and sex; whether they are married or single; and whether they have ever received alms. Every person is to answer separately, under great penalties; and the constable (if admittance to every individual of the family is refused) is directed to use force; nor is he invested with greater power upon his receiving a warrant to apprehend a felon or a traitor. And if a young woman should refuse to answer any question concerning her sex or age, which may be wantonly put, the overseer and constable, for aught that appears, may examine her, as the officers of Richard the 2nd did the young women, in a similar case; and if she resists such examination, she will, besides the insult and abuse, incur a penalty for opposing the king's officers in the execution of their office.

If these powers and these penalties should prove effectual for the purposes for which alone they can be appointed, the next question to every individual will certainly be, What is his property? and then the great work will be complete, and our government will be established *en police*. Besides all this, that no disgrace may be wanting, which can possibly be brought upon us, the pox is to be declared a national distemper among us, by this Bill; to which, I see, there is annexed a list of all English distempers, alphabetically digested.

Such is the Bill, Sir, and by such arguments has it been defended, which are so contradictory and absurd; such an insult on the public, and such a disgrace to parliament, that to recapitulate, is to confute them.

We are to entrust petty tyrants with the power of oppression, in confidence that this power shall not be executed; to subject every house to a search; to register every name, age, sex, and state, upon oath; record the pox as a national distemper, and spend annually 50,000*l.* of the public money—For what?—To decide a wager at White's!

Against this Bill therefore I do, as a faithful servant of the people, in whose behalf I stand up this day, most heartily protest.

April 16. In the Committee every clause of the Bill was debated, and these debates produced many divisions. Mr. Potter expressed himself with great warmth upon the occasion, and said, he was astonished that such liberties had been taken with the Bill which he had the honour to patronize; that the arguments, by which it had been supported, were so forcible and conclusive, that they could be ineffectual upon those only who were not capable of conviction; that it had been opposed from personal and causeless enmity; that the divisions upon it were shameful, for that, in three of them, only one person had gone out; that, if this proceeding was

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permitted, public business, of whatever moment, might always be delayed by the perverse and disaffected, however despicable their number and their abilities, till it could not be transacted with success; that, after an experiment so daring, and of such dangerous consequence, had been once made, it might be repeated on a Bill of Supply, in the utmost exigency of state; that, as there were precedents of punishing refractory members of this House, he hoped they would be followed on the present occasion; and that those who had thus perverted the power with which they had been entrusted by their country, would be returned to parliament no more.—In answer to these insinuations,

Mr. *William Thornton* said:

Sir; it has fallen to my lot, during the whole progress of this Bill, to disclose what others have attempted to conceal; nor is there any method by which I could so easily, or so effectually have proved, that the Bill ought to be rejected, as by shewing, that its advocates have practised every art to disguise their motives to project it, their zeal to get it passed into a law, and the manner in which they intend it shall be executed.

I was, indeed, astonished at the arguments which were used to support the Bill, when an examination of it became inevitable; but I am yet more astonished at the menaces, which, like a body of reserve, have been brought up when these arguments were overthrown. That any gentleman, or any number of gentlemen, in this assembly, have a right to conclude, when they failed to convince another of the expediency of any measure which they think fit to propose, that therefore he is obstinate, perverse, or stupid, is a doctrine of which I have hitherto been totally ignorant; nor did I ever think it necessary, before any Bill was taken into consideration, to enquire by whom it was patronized, lest I might be guilty of opposing those whom it was my duty to assist, and incur a punishment adequate to so enormous a crime.

The gentleman who has stood forth as the patron of this Bill, I have always honoured for the strength of his understanding, and for his address in the prosecution of any measure which he has happened to adopt; and I cannot help observing, upon this occasion, how extremely difficult it is to give cunning the rectitude of wisdom, and deceit the uniformity of truth. It may be easily recollected by all who hear me, that this Bill was represented as neutral and inoffensive, as a mere casual measure, that might either be suspended or dropped, without injury to the public, or offence to those by whom it was proposed; but if this were true, why has it been so zealously supported against opposition? What but perverseness and obstinacy, a neglect of the public, and a disposition to triumph in the exercise of power, could prompt its advocates to waste their time, and misapply their talents, in debating trivial questions with those, who, in the folly of their zeal, believe them to be important? If their declaration was not true, let them tell us with what view it was made: why was an affair of importance represented as a trifle? And, why were we then told that the consideration of that Bill might be delayed, which is now precipitated with so much vehemence and ardour, that those who have interrupted its progress are accused of personal enmity and interested views, and threatened with punishment, as impeders of public business, and enemies to the state?

From this difficulty, which, with all their art, they have not been able to avoid, I do not see that all their art can deliver them. We have been told, indeed, that an opposition to this measure ought to be punished, in order to prevent an opposition to Bills of Supply, by which the nation might suffer irreparable loss: but this is just as reasonable as if a man were to be punished for refusing to give away his property to every one that asked, lest he should afterwards refuse to pay his debts.

It is evident, that whatever was pretended, the gentlemen who brought in and supported the Bill, were far from being indifferent about its fate; they were able to preserve the appearance of indifference no longer than they believed their project to be safe; as soon as it was in danger, they appeared to be solicitous, and when the danger increased, it was easy to discover that they were angry; and when they were angry, it is no wonder that they were absurd: they have alleged that to be a reproach, which is indeed an honour; for he that goes out singly in a division, can no more be thought the associate of a faction than the tool of a minister. As no interest in others can be gained by an act in which no other concurs, it is scarce possible to assign any motive for it, that will not at least imply



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integrity and perseverance: however, the single example was not without effect—the number increased on every division; and, as it cannot be supposed that mere ill will to a particular person was the motive of all, neither is it reasonable to suppose it was the motive of any; and I think myself, in particular, obliged to declare that it was not mine.

I have no private or particular enmity against any of the advocates for this Bill; and, if I had, God forbid I should, upon such a principle, oppose them in this place; for I do not hold him in greater detestation, who would have lopped off the heads of a whole people at a blow, to gratify his cruelty or revenge, than the wretch who would withhold a benefit from his country, to gratify that petulance or malice which an individual only has provoked, and of which his country, therefore, is not the object.

Of the gentleman who has more particularly taken offence at my conduct, I have always had the highest opinion, and I think I may challenge all mankind to prove, that one personal reflection ever escaped me; if this cannot be done, it may surely be granted, that I have no personal enmity in my heart; for, as 'from the abundance of the heart the mouth speaketh,' it is scarce possible that I should have been always able to conceal it, in the warmth of unpremeditated debate, and the quick resentment of injurious censure.

The Bill, which, notwithstanding the boast of some, that it has been supported by irrefragable arguments, I think I have shewn to be detestable and absurd; to be such as its advocates chose rather to conceal than defend, supporting it by personal solicitations, disguising their purposes by various pretences, which appear to have no foundation in truth; introducing it late in the session by way of motion; insisting to number the House, when there were not members enough left to act; and condemning all opposition, as proceeding from evil principles, and tending to an evil purpose; and insinuating a disposition to punish the exercise of that liberty, which every man sits here to assert. Upon the whole, this Bill appears in itself, and by whatever has been done in its behalf, to be an abominable and foolish measure; such it was pronounced by one of the greatest and wisest men of this age; and such, I doubt not, it will be regarded by every disinterested person in the kingdom: whether those who opposed it shall be thought worthy to be again returned to parliament, it is not necessary to enquire; but the hon. gentleman, who was pleased to hope the contrary, seems to have forgotten, that to be returned to parliament is, to an honest man, no pecuniary advantage; and if he finds the majority under a corrupt and insuperable influence, it can be attended with no other: he can only protest against measures which he cannot prevent, and regret, with more sensibility, the shackles which he sees put on.

May 8. On the motion for the third reading of the Bill,*

Mr. *Matthew Ridley* rose and said:

Sir; with respect to this Bill, which is now for the last time to be under our consideration, I am under great difficulty, because some parts, and even the greatest part of it, I very much approve of, but cannot at present give my consent that the whole of it should be passed into a law. That part which provides for our having hereafter a regular and exact register of all births and funerals of persons of all denominations, as well as of those of the established church, I think highly reasonable, nor can I suggest to myself any inconvenience it would be attended with: and I also think, that it might be of great use to have a public and authentic account of the poor receiving alms in every parish, and of the annual sum raised upon the parish for their support. But that part which relates to the numbering the people cannot, I think, be of any great use. When I at first heard it proposed, I indeed considered it as a matter of very great indifference: I could not even then see the use of it; but I thought it would be a satisfaction to the curiosity of those gentlemen who love to deal in political arithmetic, and I did not think it could produce any mischief; therefore I was inclined to agree to this part, for the sake of getting the other parts of the Bill established. But by letters I have since had from several parts of the country, particularly from the town I have the honour to represent, I have been induced to alter my opinion. It is true, I am not myself so superstitious as to think, that there is any thing ominous or unfortunate in taking an exact account of the number of the people in

* From the London Magazine.



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any place or country; but by those letters I am informed, that the people every where look upon it in this light, which has not only filled them with imaginary terrors, but has raised such a violent spirit of opposition to this Bill, that if it be passed into a law, there is great reason to fear, they will in many places oppose the execution of it in a riotous manner; and that if it should be accidentally followed by any epidemical distemper, or by a public misfortune of any other kind, it may raise such a popular flame as will endanger the peace, if not the existence of our present government.

My fears upon this head, Sir, may, perhaps, by some be called pusillanimity, but nevertheless, I shall in the present case allow myself to be governed by them. If the public happiness or safety were apparently and immediately at stake, and it were necessary to establish the one or provide for the other by a new law, I should concur in passing it, without the least regard to any frenzy that might be stirred up by superstition among the people; but I shall always have so great a regard for the safety even of the most superstitious, as not wantonly and without any urgent necessity to concur in any measure that may excite them to expose themselves to penalties and punishments by disturbing the peace of their country; and as the Bill now before us can in no respect be said to be absolutely and immediately necessary, either for the happiness or safety of the kingdom, I think this, alone, a good reason for our not passing it into a law during the present session.

But besides, Sir, by most of the people without doors, with whom I have lately conversed or corresponded, I find that this Bill, so far as relates to the numbering of the people, is disagreeable, not only to the superstitious, but even to gentlemen of solid sense and good understanding. Every one computes the expence which the nation is to be put to by this numbering scheme, and the trouble and expence which the overseers or churchwardens of every parish must be annually put to; and every one cries, For what end is all this trouble and expence? Can it be of any national use? Or is it merely to satisfy the curiosity of some gentlemen at London? These are questions, really, to which I could never yet give a satisfactory answer; and to these they add a prophetical observation, which, I am afraid, will be found by experience to be true. They say, it will be impossible for the overseers to take an account of the number of people in most parishes, unless you send about with them in every parish a greater party of soldiers than you can spare, notwithstanding the numerous army you now have on foot: that unless you do this, the people will laugh at them instead of giving them an account of their families; and that it will be impossible for the justices of the peace to levy such a number of penalties as will be incurred; nay, that their attempting to do so would certainly occasion a general insurrection.

These, Sir, are some of the objections made even by men of the best understanding; and supposing I were able to answer them to my own satisfaction, yet as they are made by some of the most eminent among my own constituents, I should be for taking time to converse with them upon the subject, in order to endeavour to satisfy them as well as myself; for though I know that after having taken my seat in this assembly, I become one of the representatives of the commons of Great Britain in general, yet when any new and very extraordinary measure is proposed, I shall always be for consulting those who did me the honour to send me here; and though in my own opinion, I may think it right, yet if I find it generally disagreeable to them, I shall be at least for delaying my concurrence until I have an opportunity to bring them over to my opinion, or to discover that their opposition proceeds from some partial and selfish consideration inconsistent with the general welfare of the nation. This, I say, shall always be my conduct in parliament, unless the regulation or measure proposed, be of such a nature as can admit of no delay, without endangering the public tranquillity; which cannot, surely, be pretended with respect to the Bill now before us, as that part of it relating to the numbering of the people is not so much as proposed to commence, until several months after the next session of parliament will probably be opened.

What I have hitherto mentioned, Sir, are objections against the Bill in general, or at least against that part of it which relates to the numbering of the people; but really, when I come to consider separately and distinctly the several clauses of it, I cannot avoid being of opinion, that it still wants many alterations and amendments. Unless the account of the numbers of the people be very exactly taken,

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it can answer no end whatever, not even that of a speculative curiosity; but I will say, that as the Bill now stands, it will be impossible to make this account in any degree exact. Considering the numbers of people in this country, that are sometimes at their house in town, and sometimes at their house in the country; and the much greater numbers that are continually travelling to, or sojourning for a night or two, in some city or market-town, infinite numbers must by this Bill be twice reckoned in the account, or entirely left out of it. For example, a merchant in London has a house in the country: whilst he is there, the overseers come on Monday morning to his house in town, where they find only a servant-maid, and as nobody else had been there for the twelve hours preceding, they can only put her down in their account: he comes with his family to town on Tuesday morning; on Wednesday the overseers come to his house in the country, where they find only his gardener; and as nobody else has been there for the twelve hours preceding, they can only put him down in their account. Thus the merchant and his whole family, except his gardener and house maid, will be left out of your account; and every gentleman must see, that by converting the suppositions, he and his whole family, except as before, may be twice reckoned, once at his house in the country, and again at his house in town. Then with regard to travellers and sojourners, many of them may, and probably will be reckoned at the inn where they have lodged and breakfasted, and again at their constant dwelling; or perhaps not at all, if the overseers come to their usual abode twelve hours after they are gone, and they do not sojourn twelve hours at any one place whilst they are upon their journey; and as to stage coachmen, waggoners, bargemen, pedlars, and the like, I do not see how they can be numbered at all, as they seldom stay twelve hours in any one place.

This cause of misreckoning in the account ought therefore, Sir, to be guarded against by some apt words in the Bill, before you pass it into a law; and another objection is, that there are many overseers in the country who cannot write, much less state an account according to the ingenious model you have prescribed. What must such overseers do? They must carry a learned clerk along with them round a wide extended parish, which will cost them more than you are to allow them for their trouble; and what is still worse, if they happen to chuse an ignorant or negligent clerk, of which they can no way judge, they are to be fined for his negligence or ignorance. To this I shall add, that in those parishes where there are two overseers, as there are in most, a doubt will arise, whether they must go round the parish together, or whether they may not divide it, and one go round one half of it, and the other round the other: and if they should divide it, whether one of them may not be fined for the mistake or omission of the other. If they must go together, it will be infinite labour in some large country parishes; as they must often call several times at a farm house, before they can find any body at home to give them a proper answer; and if they divide the parish between them, and each go round his half, it will be very hard to punish one of them for the mistake or omission of the other; yet I do not see how the justices of the peace can by the Bill, as it now stands, distinguish, because they are both expressly enjoined to go round the parish, and one overseer has no more power to entrust the performance of his duty to the other, than he has to entrust it to his menial servant.

Now, Sir, as to the notices of births and deaths, they are all by the Bill to be given in writing, and unless they are so given, the officiating minister is neither obliged, nor indeed can he enter them in his registry book, because the notices are to be his vouchers, and as such, are all to be preserved by him, and laid before the vestry, when his registry book comes to be examined. How many cottagers, labourers, and working manufacturers and tradesmen are there, nay, how many substantial farmers that cannot so much as write their own name? How must they give a notice in writing? For perhaps they have not a friend that will write it for them, nor money to pay one that will do it for hire. And as to marriages, Sir, the laying an express obligation upon the minister to enter them in his registry-book, whether the parties desire it or no, may be attended with great inconvenience. How many are there, and always will be, who chuse, or perhaps are, for particular reasons, obliged to have their marriage kept secret for some time: How many are there who, by the custom of the manor, would lose their estate, if their second marriage could be proved? If this Bill should pass, none of these persons must

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marry according to the rites of the church of England; and if another Bill which has this day been read a first time, should be passed into a law, they can marry in no other way, unless they be Jews or Quakers; consequently you will oblige all such to live in a continued state of fornication, and bastardize all their children. But if there be any necessity that all marriages should be registered, and made public as soon as solemnized, which I do not think there is, I cannot comprehend how this necessity comes to be confined to those marriages only that are solemnized according to the rites of the church of England: does it not with equal reason extend to marriages solemnized according to the rites of the Papists, Dissenters, and Jews, as long as such marriages are allowed to be good and effectual in law? Does it not in a particular manner extend to Jewish marriages, which are so much favoured by the Bill I have mentioned? For if the Bill for naturalizing the Jews, which was yesterday read a second time, should be passed into a law, they may in a few years come to be possessed of a great part of the landed property of this kingdom; and I believe, they are not now so regular and exact in preserving an account of their descents as they were of old, and ought to be by their law.

These particular objections, Sir, must, I think, shew, that the Bill ought not to be passed without several amendments and alterations; and as the Bill in general seems at present to be disagreeable to the people without doors, I hope the hon. gentleman who brought it in will agree to its being put off until next session, that in the mean time proper endeavours may be used for removing the prejudices of the people; for if they can be reconciled to it, and some few amendments made, I shall then readily agree to it; but as I can see no necessity for its being passed into a law this session, I cannot agree to it at this present time, or in its present unfinished dress, and therefore I shall conclude with moving, "that it be read a third time on this day two months."

Mr. *Thomas Potter:*

Sir; I am sorry to find, that the hon. gentleman has been by any means induced to alter his opinion of the Bill now under consideration, because in every thing I have a very great regard for his opinion, and because he seemed to approve of every part of it, when it was first proposed. But really, Sir, if he has no better reasons for altering his opinion than he has now been pleased to communicate to us, I must think that he shews a greater deference to the voice of the people without doors, or even to that of his own constituents, than he is any way bound to do as a member of this House: for if a Bill being disapproved of by many without doors, should be admitted as a sufficient reason for our not passing it into a law, we should never pass any law at all. There never was a law proposed, there never can be a law proposed, but what must be attended with some inconveniences, nor any one that was not inconsistent with the private interest of many in this kingdom; and those whose private interest it happens to be inconsistent with, will always set the inconveniences attending it in their strongest point of view, in order to cover their selfish motives for opposing it, and to assign plausible and popular pretences for exclaiming against it. This every gentleman must be sensible of, who has in the least considered the nature of mankind, especially in this degenerate age, when I am sorry to say there are but few who will freely, and without any ambitious view, sacrifice the least jot of their private interest, or even of their personal ease, for the greatest public advantage. Therefore, when any new Bill is proposed, we ought always, as members of this House, to consider the general purport and tendency of it, and if it appears in the main to be for the good of society, we ought not to shew any regard to the inconveniences or disadvantages, to which some particular men may be thereby exposed, or to those clamours which they will, for that reason only, though they may assign others, most industriously propagate.

It is for this reason, Sir, that we never receive any petitions against Money Bills; because no method for raising money can be proposed, but what must be inconsistent with the private interest of multitudes, and consequently every Bill for such a purpose would certainly have a number of petitions sent up against it, every one of which would desire to be heard by counsel, and to have witnesses examined; so that if we gave any countenance to such petitions, or attended to the complaints of some of our constituents, we should never be able to provide for the current supplies. Now, the Bill under consideration is really something of the nature of a Money Bill,

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as it subjects a multitude of people to a good deal of trouble and some expence, for the sake of obtaining a considerable public advantage. I am therefore not at all surprised at the clamours raised against it without doors: it was what I expected when I first proposed the Bill to the House; for as the officiating minister of every church or chapel, and the parish officers of every parish, are to be put to some additional trouble; and as I foresaw that neither would think that reward which the House might incline to give, a sufficient compensation for the additional trouble and expence they were to be subjected to, I made no doubt but that many of the country curates, and most of those who think it may be their lot to serve overseer of the poor after the commencement of this Bill, would join in exclaiming against it, either because they have not public spirit enough to serve their country without a more than sufficient pecuniary reward, or because they have not capacity to comprehend the advantage that may redound to the public, by the legislature having yearly an authentic account of the number of the people, not only of the whole community, but of every particular district; and also an account of the number of poor receiving alms, and of the sums raised in every parish for their support; for few people without doors ever turn their thoughts to national polity, consequently it can be understood by very few; and the few that do understand it, may not perhaps have so much public spirit as to submit willingly to a great deal of trouble for a very small reward.

Thus, Sir, I foresaw the difficulty I was under with respect to this Bill; if a small reward should be proposed, I saw it would raise a clamour without doors; and if such a reward should be proposed as might be thought sufficient by those who were to be subjected to the trouble, I saw it would raise an opposition within, on account of the largeness of the expence necessary for carrying the law into execution. It now appears, that I have neither way been disappointed in what I expected; for the hon. gentleman has told us, that it has raised a clamour without doors, and for as small as the rewards are which are intended by this Bill, the expence of carrying the law into execution has, I find, been made one of the chief objections against the Bill in this House. But if it passes here, I shall very much despise the short-lived clamour that may be raised without doors; for the execution will be found much easier than is now expected, and will be no way felt but by a very few, so that the clamour will soon subside; and no gentleman who has sat any time in this House can be insensible of the utility of the law proposed; for seldom a session passes over but something happens in which it would be of singular advantage to the public, and a great satisfaction to ourselves, to have upon our table such authentic accounts as are proposed by this Bill to be laid yearly before parliament.

As to putting off the Bill to another session, Sir, I should readily agree to it, if I thought it would be of any service, or lessen the clamour without doors; but on the contrary, as the clamour can be raised only by the selfish and interested, it will be increased by delay, because we shall furnish them with longer time and more opportunities to propagate the clamour, and their industry will be whetted by their present success. Whereas if the Bill be once passed into a law, they will see that it is to no purpose to give themselves any farther trouble: and the body of the people, feeling no inconvenience from the law, cannot so easily be spirited up against it, as they may, against a Bill of which they have had no experience. The clamour without doors, if there be any such, is therefore an argument for, rather than against passing the Bill this session: and as to births, deaths, and marriages, it will begin very soon to take effect, so that soon after the 24th of June, 1754, we shall have a better foundation for guessing at least as to the number of people in this nation, than we ever had heretofore.

Having now, I hope, Sir, effectually removed the general objections started against passing this Bill, or at least against its being passed this session, I shall take up but very little of your time in answering the objections made against some of the particular clauses; first premising, that it is impossible to make a law so perfect and complete, as to answer every case that may in the execution occur. To attempt doing so would be ridiculous, and would breed obscurity and confusion. In all laws something must be left to the judgment and discretion of the judges and officers who are to carry it into execution; and if the general scope and intention of the law be observed and pursued, no breach can be inferred. As to the objection, that many people may, by the Bill as it now stands, be twice numbered, or, perhaps,

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not at all, surely the overseers in every parish will have discretion enough to ask such people, whether or no they have been numbered in any other parish, and to omit numbering them again, or to make a memorandum of it, in case they say they have; and as the numbering the people in every parish is always to be completed in ten days, very few of these cases can happen, at least not so as to make any material difference in the total number of the people in Great Britain, nor indeed in any one parish; for as to stage-coachmen, and the like, they will be numbered in the family to which they properly belong, and cannot be numbered any where else, because they are never twelve hours in any other place, and though they have not been twelve hours at home, yet as they belong to the family, the overseers will certainly number them as such.

Then as to those overseers, Sir, who cannot write, if there be any such, they must even now employ one to keep the accounts of the parish, and him they may employ to write down the numbers of the people, which may be easily done; because I make no doubt but that every stationer will have a number of printed schedules, according to the model prescribed, to be sold, I suppose, for a halfpenny, which will be a direction to the most ignorant person how to fill them up. And as to the overseers going jointly to take the number of the people, or dividing the parish between them, it is entirely, and rightly, I think, left to their discretion; nor can either of them be made liable to any penalty, for the mistake or neglect of the other; for whoever complains must particular describe the neglect or wilful omission, and name the person who was guilty of it, and he alone is to be summoned, he alone is to be fined.

With regard to the notices of births and deaths, Sir, which are to be given in writing, if the person who is to give the notice cannot write, he must be a very friendless creature if he cannot get one in his neighbourhood to write it for him; but if such a thing could be supposed, which is hardly possible, the officiating minister may, and certainly would get the parish clerk to write it for him, and to attest his putting his mark to it. And as to the objection against that part of the Bill which requires, that all marriages solemnized according to the rites of the Church of England should be registered, it seems to be founded upon a doctrine which I cannot approve of; for I think all marriages ought to be public, or at least made public soon after they have been entered into, not only for the sake of preventing the crime of bigamy, but for establishing the legitimacy of children, and putting an end to all disputes upon that head. There can be no reason for keeping a marriage long secret, but what has something criminal, or at least immoral, in its nature; and such reasons ought not to be admitted, nor even connived at by the laws of any society. There may be many fancies for concealing a marriage, but I can suggest to myself but two reasons for concealing it for any long time: one is, when a person has any friend or relation from whom he expects an estate, if he does not marry without his consent; and the other is when a widow has, by the custom of the manor, a right to her deceased husband's estate during her widowhood. To these I must add the case of a fellow in most of our colleges, who loses his fellowship if he marries. In the first case, the person who marries and conceals his marriage, imposes upon and cheats his friend: in the second, the woman holds an estate, and takes the rents and profits, which she is conscious does not belong to her; and in the third, the man is actually guilty of perjury, because he has sworn to observe the statutes of his college. Can any of these cases be said to be strictly moral and just? In the two last you may alter the laws if you will; but whilst they continue in force, the breach of them ought not to be indulged, much less expressly authorised by law. And as to those who may have some fancy for concealing their marriage, that fancy may be indulged for near a twelvemonth, which is as long as any fancy ought to be indulged; for no one is to peep into the registry-book, but the minister who keeps it, until it be laid before the vestry at the end of the year.

The registering of marriages cannot therefore, I think, Sir, be attended with any inconvenience to those whose marriages ought to be indulged; and as the registry will, in my opinion, be an advantage not only to the married couple themselves, but to their latest posterity, it ought, I think, to be confined to those that are married according to the rites of the Church of England; as the gaining of this advantage will be an inducement for all sober and regular people to be married in that way; for no one surely can find fault with any law for encouraging that

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which is the established religion of the society.

I hope, I have now shewn, that none of the objections made to this Bill, or to any part of it, can be of weight enough for inducing us to put it off until next session. At the same time, Sir, I am far from pretending, that the hon. gentlemen who were ordered to bring it in, are infallible, or that the Bill is so perfect as never to stand in need of any amendment; but if there be any imperfections in it, we may easily explain and amend it by a short Bill in some future session; and as those imperfections will best appear when the law comes to be carried into execution, that we may discover and remove them as soon as possible, I am for the Bill being this session passed into a law.

Lord *Barrington:*

Sir; I find that the chief argument hitherto made use of against the Bill is, that the people or the nation disapprove of it; now I must observe, that there is no term of a more uncertain and indeterminate meaning than the words people or nation, when applied to any opinion or way of thinking. When a gentleman says the people or the nation think so or so, he means, he indeed can mean nothing but himself, and the little circle of his own acquaintance. I do not in the least doubt the hon. gentleman having had such letters as he has mentioned from some of his constituents, yet we are not from thence to conclude, that the people, no not even the people of that city, are generally of such an opinion with regard to this Bill. It was the opinion of the writers of those letters, and perhaps of the few they conversed with upon the subject: I say, perhaps; for when a gentleman begins a conversation by declaring his opinion, which is often the case, most of those he converses with, will out of complaisance declare themselves of the same opinion, though they may possibly have never bestowed a thought upon, much less formed an opinion relating to the subject.

Therefore, Sir, notwithstanding these letters, the people of that city may in general be of a very different way of thinking; and I am the more apt to conclude that this is really the case, because during the late holidays I made a progress into the country, and in every place I found, that the better sort of people approved highly of this Bill, and were even solicitous about its being passed into a law. Some of the lowest sort of people did, indeed, exclaim against it, but they were such only as are usually called the populace, a sort of polite name for the mob, and even they appeared to be against it from just such another sort of superstition, as made the vulgar in many places exclaim against that most necessary and useful law for introducing the new stile, and made them obstinately persist, even this last year, in not keeping their Christmas according to that stile, which they called parliament Christmas. Now, when that law was passing, if some high-church country curates had written to their representatives in this House, that the people generally disapproved of the Bill, that it would create a schism in our Church between old Christmas and new Christmas, and that it would raise such disputes, and meet with such opposition, as might endanger the public tranquillity, I believe, such remonstrances would have had the very same foundation with the letters which the hon. gentleman has received: that is to say, they would have been founded upon the opinion of the authors, and of most of those they conversed with; but I cannot think that this House would have shewn such regard to them, as to reject the Bill, or even to put it off to another session.

With regard to our proceedings in this House, Sir, I hope we shall never allow ourselves to be directed by the superstitions, the conceits, or the clamours, of the mobbish part of our people; the opinion of men of good sense and impartial judgment we ought always to have a regard to; but if any such are against this Bill, it is not on account of any thing contained in the Bill, but on account of a suspicion they have been made to entertain, that something else is intended, and that the Bill is designed as a foundation for some new tax, or some new method of taxation. This, Sir, is the true reason for their being against the Bill, and the only way for convincing them that there is no foundation for their suspicion, is to pass the Bill into a law; for whatever industry has been used to create and propagate such jealousies and fears, they will all subside in a year or two after the law has taken effect: because by that time every one will see, that no scheme was reserved *in petto*, nor any thing originally intended but what was expressed in the Bill; and my regard for the hon. gentlemen who brought it in, makes me the more sanguine for its being passed this



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session, that those who are now in error, with regard to their conduct, may the sooner be convinced of their having been led into a mistake.

There are so many advantages, Sir, both of a public and private nature, that must result from this Bill, that I am persuaded no man of good sense, and any tolerable degree of public spirit, can be against it, unless he be misled by an unjust suspicion of some hidden design; and if the hon. gentleman's correspondents be such, in a very few years after the passing of the Bill, they will thank him for not following their advice, consequently he has no occasion to be alarmed at any thing they have written; and if they be men of such a selfish way of thinking as to oppose what so evidently tends to the public good, only because it may possibly sometime hereafter put them to a little trouble and expence, I am sure, that as a member of this House he ought not to shew any regard to what they may either say or write in relation to any Bill depending in this House. Therefore, I hope, he will, upon a second consideration, concur with me, and, I believe, with a great majority of the House, in giving his vote for passing this Bill into a law.

Mr. *Thomas Pitt*:

Sir; whether or no the majority of this House, thin as it is, will be for passing this Bill into a law, is what I shall not take upon me so much as to surmise either the one way or the other; because I have so little skill in physiognomy, that I never could judge of men's opinions from their faces, but in my opinion, the Bill in its present form is such a one as ought not to have been brought into the House. I say this, Sir, because in the bringing in of Bills care should always be taken not to tack things together in any one Bill, which in their own nature have no manner of connection. This I take to be an established rule in our method of proceeding, and the reasonableness of it is very evident, because by a contrary practice gentlemen may often be brought into a dilemma, and thereby laid under a necessity to reject what they like, on account of what they do not like, or to consent to what they disapprove, for the sake of obtaining what they desire to have established; which is my very case with regard to the Bill now under our consideration. That part of it which appoints a regular register to be kept of all births and funerals, and likewise that part which relates to the poor, I highly approve of, and should be glad to have both established by proper laws; for even these two regulations ought not, I think, to be tacked together in the same Bill; but what relation has the annual numbering of the people to either of these? Surely, a regulation which will require such repeated and endless trouble and expence ought to have been laid before the House in a Bill by itself, and if it had, whatever might have been its fate in this House, I am persuaded, it would have met with the disapprobation, and even the contempt of a great majority of all ranks and conditions of men without doors.

Not to mention, Sir, the trouble and loss of time, which all future overseers and ministers, churchwardens and vestries, of every parish, will be yearly put to by this numbering scheme, let us make a gross computation of the expence: it is reckoned, I think, that there are about 11,000 parishes in Great Britain, therefore at first view it must appear, that this scheme will cost the nation 11,000*l.* a year, which must be paid out of the poors rates in each parish; and considering how grievously most of the parishes in England are already taxed for maintaining their poor, I think, we should not subject them to this new expence, for the sake of a mere speculative curiosity; for were the number of the people in Great Britain, and their annual increase or decrease, as exactly known, and as regularly kept, as the number of men in a regiment, I cannot suggest to myself any use it could be of to the public, or to any private man in the kingdom. But this certain expence which every parish is by this Bill to be put to, is not the only expence that will attend the execution of this numbering scheme; for there are very few parishes in England where the overseers must not be at a much greater expence than the sum which by this Bill is to be allowed them by the parish; and as a tradesman's time is his money, we must reckon their loss of time as an additional expence, because in almost all our parishes the overseers of the poor are tradesmen or farmers; so that at a moderate computation we may reckon that this numbering scheme alone will cost the people at least 25,000*l.* yearly, and I confess, I have too quick a sense of the burdens they already groan under, to think of subjecting them to this new burden, light as it may seem to be to some gentlemen,

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merely for the sake of satisfying my curiosity, or the curiosity of any gentleman in the kingdom, even supposing that we could have by the method proposed an exact annual account of the whole number of people in this island, and of the particular number in each respective parish, and all properly distinguished into the several classes mentioned in the Bill.

But this, I am sure, Sir, we cannot have by the Bill as it now stands; for besides the difficulties that have been already mentioned, none of which have been removed by any thing yet said in favour of the Bill, there are others that now occur to me, and many more may appear when it comes to the execution. In the first place, the time for numbering the people is appointed to be about the end of June and beginning of July: and I must observe, that during that whole time, there are multitudes of Irish in this kingdom, who come over to assist in the hay and corn harvest, and return to Ireland as soon as the harvest is over. If these should be all numbered, you will make the number of your people much larger than it is; but this I shall grant, we are in no danger of, for such people, even while they are here, cannot be said to be resident or dwelling in any house in this kingdom, as they generally lie in barns, and dress their victuals, when they have any to dress, in the fields, or at the next alehouse. Therefore, our account will not probably be increased by the including of these people; but as there are great numbers of our own people who at that time of the year are employed in the same business, and live in the same way, they must for the same reason be left out of your account; for as they neither are at that time, nor have been for many days before, at the usual place of their residence, they cannot be there numbered, and if they were to be numbered at the place where they are then at work, it will be impossible to distinguish who are British, and who are Irish, so that you must either include all the Irish in your account, or leave out great numbers of your own people; and how the overseers can have an account of either I do not know, for a farmer never knows how many haymakers he has in his barn, and perhaps none of them he has there, are at that time in his service.

A difficulty of the same kind, Sir, will occur with respect to most of the day-labourers in every branch of business within our cities and great towns: few of them live at the house of the master they work with, and still fewer have houses of their own. They are generally inmates, and if married, both the husband and wife are often out at their daily labour. Many of them live in houses that are let out into separate tenements where one family knows little or nothing of the other, and most of them are abroad the whole day, and the doors of their apartments locked up. How shall the overseers take an account of the number of the persons dwelling in such a house? Where are any such day-labourers to be numbered? At the house where they reside, or at the house of the master with whom they work? At the latter they cannot be numbered, because they cannot be said to reside or dwell there; at the former they cannot be numbered, because they are never there in the day time, nor any one there who can say they have resided in that house for the last twelve hours preceding. Sir, I have often heard lawyers complain of their being at a loss to find out our meaning to some of the laws we make; but if this Bill, as it now stands, should be passed into a law, I believe no lawyer in England will be able to resolve all the doubts that will naturally arise: how, then, shall an ignorant country overseer resolve them? How shall they determine, when they may depart from the express words of the law, in order to follow the intention or the spirit of it? Yet this they must often do, or otherwise their accounts must be full of blunders.

With regard to all those, Sir, who have houses in town and in the country, and likewise with regard to all travellers, it has been shewn, that they may chance to be twice numbered or not at all; and the only answer that has been made, or indeed that can be made to this is, that the overseers must ask people whether they have been numbered at any other place. But does the law oblige people to answer this question truly, or does it punish them if they answer wrong? Or, when an ignorant country overseer finds a whole family at their house in the country, can it be imagined, that he will think himself empowered to depart from the express words of the law, and omit putting them down in his account, because they tell him they have been already numbered at their house in town? What our overseers may do in such a case I do not know, but really as to myself, I should be very shy of taking so much liberty with the express words of an act of parliament. And besides all this, as the case was at first put, it may so happen



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that no overseer shall have an opportunity of asking any such question; and consequently the gentleman and his family, or the traveller, must be entirely omitted in every account that is to be taken. From all which, I think, it is evident, that however ingenious the method proposed by this Bill for taking an account of the number of people may be, we can from thence expect no exact account; and if from the accounts that are to be thus taken and transmitted, our gentlemen of speculation and curiosity are only to guess at the real number of people in this kingdom, they may in a few years make as good a guess from the registers of births and funerals, were they once regularly established, and exactly kept, which they may be without much trouble or expence, and without alarming the people.

I say, alarming the people, Sir; for whatever the noble lord may say, wherever he may have travelled, or with whomsoever he may have conversed, the people are alarmed: I will go further, I will say they have good reason to be alarmed. They do not understand the curious speculations of political arithmetic, much less can they comprehend the uses that may be made of it; and they cannot think it possible, that the legislature would pass a new law, and a law, too, that will be attended with so much trouble and expence, without so much as a prospect of any advantage to ensue; therefore they judge that this new law must be designed as a foundation for some new tax, or for increasing the burden of some of those we have already. As I am acquainted with the hon. gentlemen who are the chief promoters of this Bill, I know that they have no such design at present, but even they must allow, that some future minister may take advantage of this law, and erect a new tax, or a new method of taxation, upon the foundation they have laid; for when our ministers have come to the knowledge of the true number of the people of Great Britain, according to the classes mentioned in the Bill, as well as of those receiving alms from their respective parishes, they may easily and certainly compute what a poll-tax would amount to; and if it be true, that the number of people in Great Britain, besides those receiving alms, amounts now to ten millions, such a tax at a shilling a head one with another, which is the least we can reckon, as people always pay according to their rank and condition in life, would amount to 500,000*l.* annually, a most delicate morsel for an enterprizing minister, and therefore the next foreign project we enter into, such a tax may probably be not only imposed, but made a fund for borrowing a large sum of money, and thereby rendered perpetual.

Thus, Sir, the people without doors have some reason to be afraid of what may be the design of this Bill, and even many within as well as without have reason to be apprehensive of the use that may be made of it; for after our ministers have been fully informed of the large sums paid by each respective parish to the poor, they may make it an argument for introducing a new assessment with respect to the land tax, in which they will be supported by the whole monied interest, now by our misfortunes become so considerable in this nation, and also by the landed gentlemen in several counties, who think themselves higher rated than their neighbours; though neither the one nor the other can have any just reason for promoting a new assessment; because our monied men should consider, that our landed gentlemen pay at least their proportion to every other tax, and those who now complain of their being over-rated to the land tax, should consider, that all parts of the kingdom do not enjoy equal advantages, and that therefore they neither can nor ought to pay equally towards the land tax.

I do not mention these things, Sir, with a design to raise any jealousies or fears either without doors or within. I know that our ministers have now as little reason to apprehend, as any man can have to expect, that a spirit of opposition can be raised or propagated among the people. There was a time when many groundless jealousies and fears were propagated, and a spirit thereby raised by some gentlemen, who have since made a frank confession, and taken shame to themselves: in this last part of their conduct they may perhaps be in the right; but the people have thereby found themselves so much disappointed, that they think they can put no trust in any man's professions, nor expect any redress from parliament. This has so much sunk their spirit, that they seem to be entirely regardless of what is done in parliament, which, I am sorry to say, is ominous to our constitution; for if they should once begin to despair of ever getting any relief from parliament, without the consent of the administration for the time being, I am afraid they will begin to

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hold parliaments in contempt; and this would render it easy for any future sovereign to lay them entirely aside, which some one will certainly do, unless our parliament, like the senate of Rome, should become nothing but an engine for carrying into execution the most oppressive measures of the prince upon the throne, and for giving his most arbitrary edicts the colour and form of law.

However, Sir, as our elections are not all as yet under the direction of the minister for the time being, and as a new general election may very soon come on, I would advise some gentlemen to be cautious of consenting to a law, which is suspected by the people without doors to be designed as a foundation for some new tax, or new method of taxation; for though no general spirit can now be raised among the people, yet a particular spirit of personal resentment may still operate strongly in some of our counties or populous cities, and may at least increase the expence, if not defeat the success of some candidates at the next general election.

This, Sir, should make several gentlemen willing to have some longer time to consider of a law, which is to be attended with so much trouble and expence to the people without doors, even if there were no particular objections to the dress in which it now appears; but these, I think, are innumerable. Some of them have been already mentioned, and all the answer that has been made to them is, that our wise and learned overseers of the poor, and justices of the peace, are to correct the errors and omissions of the legislature, which is giving them a greater power than has ever yet been assumed by our judges in Westminster-hall; otherwise why have we upon our statute books so many laws for explaining and amending former laws? I have already observed, that what relates to the keeping and transmitting an account of the poor, and of the sums raised in each respective parish for their support, and what relates to the keeping and transmitting a register of all births and funerals, ought not to have been tacked together in the same Bill, for I am sure, they have no manner of connection; and if it should be thought necessary to have marriages of any kind registered, which I am not as yet convinced of, it should certainly be regulated in a Bill by itself alone. Then, with regard to births, your appointing the names of the father and mother to be registered as far as the same can be known, may be very inconvenient for the fathers of some bastards, and even sometimes for the mothers; and likewise for the parents of children begot in lawful wedlock, whilst they find it necessary to conceal their marriage; therefore, I think, you should make this part of your Bill conditional, by appointing the names of the father and mother to be registered, "if" the same be "publicly" known.

Thus, Sir, it appears that this Bill, even in its present complicated form, stands in need of many amendments; and therefore, I hope the hon. gentlemen will agree to have it put off till next session, when proper and distinct Bills may be brought in for all the purposes intended by this Bill, and gentlemen will then have an opportunity to approve of what they like, without being under a necessity of consenting to the passing of what they do not like into a law.

Mr. *George Grenville:*

Sir; whether the hon. gentleman who spoke last was here when this Bill was first moved for, I do not know, but if he was, I am surprised to hear him call it a matter of mere speculation, as the many great and necessary uses it may serve were then so fully opened. As to those purposes which will be effectually answered by an annual account of the poor, and by a regular and exact register of all births, deaths, and marriages, I think I need not repeat them, as this part of the Bill seems to be approved of, even by those who have spoken against it, and who have levelled their whole artillery against that part alone, which requires an account to be yearly taken of the number of people in each parish. This, it is said, can answer no purpose but that of an insignificant and vain curiosity, as if it were of no consequence for the legislature to know when to encourage and when to discourage or restrain the people of this island, or of some particular parts of it, from going to settle in our American colonies. Do gentlemen think, that it can be of no use to this society, or indeed to any society, to know when the number of its people increases or decreases; and when the latter appears to be the case, to enquire into the cause of it, and to endeavour to apply a proper remedy? Such a knowledge, I should think, would have been very necessary for us, at the time we undertook to establish a new colony in Nova Scotia; for if the number of our people had then appeared

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to be upon the wane, I should have thought it an improper time for us to engage in any such undertaking, unless we had resolved to carry it on by means of foreign Protestants, and such of our own people as had never been accustomed to any sort of labour. We know, Sir, that Spain, which in the time of the Romans was so vastly full of people, has, within these last two or three centuries, been almost dispeopled, by too much encouraging their people to remove to their settlements in America; and therefore, however useful such settlements may be to this kingdom, this should be a warning to us not to allow them to dispeople their mother country. Even here at home do not we know, that both manufactures and the number of people have of late years decreased in some parts of the kingdom? Would it not be of advantage to us to know, whether this affects the whole, or if it be only a removal from one part of the island to another? And in Scotland we know that there are some particular parts of the highlands where the people are generally disaffected, and from whence the Scottish regiments in the French service are chiefly recruited; would it not be of advantage to us to know the exact number of the people in those parts, in order to take proper methods for giving them such encouragement and employment at home, as may prevent their being under any necessity to go abroad?

Thus, Sir, it must appear, that an authentic knowledge of the number of our people, and of their annual increase or decrease, will be extremely convenient at all times for many useful purposes, and in the case of a long war, it will be absolutely necessary; for the usual method of raising recruits for our army would not then be sufficient: we should be forced to have recourse to that of obliging each parish to furnish a certain number; and we could not do this with any sort of equality, without knowing the number of young unmarried men in each parish. Likewise, in the case of a threatened invasion, our safety might depend upon our augmenting our army in the most speedy manner, and would not this of obliging each parish to furnish a certain number be so? And I am very certain, that no proper method can be contrived for establishing a useful national militia, without first knowing the numbers of our people, and having them distinguished into such classes as are mentioned in this Bill.

I hope, Sir, I have now convinced the hon. gentleman, that there is a great deal more than mere speculation even in this numbering scheme; and as to the objection that it will be impossible, from the method proposed, to know the exact number of our people, because of the numbers that must be either twice numbered or not at all, we must do in this case as we do in all others, we must trust to the discretion and the diligence of the officers that are to be employed in carrying the scheme into execution. As the whole business of numbering is to be completed in ten days, it cannot be supposed that many will be twice numbered without any remark, and such as may happen to be so, will probably be compensated by those who happen not to be numbered at all, which will be sufficient; for the utmost exactness is not absolutely necessary, and a few years will bring our knowledge of the whole number to a very great nicety, which never can be acquired from the register of births and deaths, were it to be exactly kept for many ages; because the very groundwork of all calculations from thence, is founded upon a supposition, that such a certain proportion of those that are alive die every year. In some foreign parts where the number of people and the number of deaths were exactly known, it has been found, that about a thirtieth part die every year; but no such supposition can be made in this country, because the number of people either in the whole island, or in any particular part, has never been authentically taken; and in order to make the supposition with any tolerable certainty, it would be necessary to have an exact number of the people, and of the births, and deaths, for several years, in several parishes, and in several parts of the island.

But this of numbering the people, has, it seems, no connection with the account of births and deaths, and therefore ought not to have been put into the same Bill. I am really surprised, Sir, to hear any gentleman say so: suppose a merchant should resolve to keep an account of the increase or decrease of his estate, as every merchant does or ought to do, and is by them usually called their account of profit and loss, would it not be ridiculous in him to begin such an account without first stating an account of his estate? Would it not be equally ridiculous in him not to bring this account to a balance, at least once a year? Can it then be said, that

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the taking an account of the number of our people had no connection with the account of births and deaths? Or that an account of marriages, which is the legal way of increasing or supplying our estate, has no connection with either? These three accounts, Sir, are so far from having no connection, that unless we have periodically an account taken of the total number of our people, the other two will signify nothing, because we can never bring our account of profit and loss to a balance, as great numbers of our people are yearly going abroad to settle in our American colonies, and some are yearly returning or coming from thence to settle in this kingdom; and, I believe, we have yearly a pretty numerous supply from Ireland; therefore, unless we have some periodical account of the total number of our people, an account of births and deaths would really be nothing but a matter of mere speculation, and would be of very little use even for that purpose, as no supposition can be with any certainty made of the proportion of people that die yearly in this island.

As to the opinion of the people without doors, Sir, I shall always have a great regard for it, and should be very distrustful of my own, if I found it differed from that which appeared to be the opinion of the people in general: but this is not the case at present; for I do not believe there is a man in the kingdom against any part of this Bill, unless it be such as have been influenced by the jealousies and fears that have been most industriously propagated, and which are, I am sure, as groundless as any that were ever propagated upon any occasion. What occasion the hon. gentleman alludes to I am quite ignorant of, and so can have no concern in; but if any such were ever propagated, I am glad to hear that the authors have taken shame to themselves, which, I hope, will always be the fate of those who propagate groundless jealousies and fears of the measures of the government, or the proceedings of the legislature, especially of those who have propagated any jealousies or fears with respect to the Bill under consideration; for there never was, nor can be less ground for any such. Can any gentleman think, that if there were the most distant design of imposing a poll-tax, or introducing a new assessment, there would be the least necessity for knowing the number of the people, or the amount of the poors rates in every parish, and for having this knowledge in the most public and authentic manner? We have had several poll-taxes within these last 50 or 60 years; and as the circumstances of the nation or people connot have much altered within that time, a calculation may from thence be made how much such a tax would produce, with much greater certainty, and upon a much more solid foundation, than could be made from knowing the number of the people, without any knowledge of their respective ranks and conditions in life, as such a tax would be a most grievous and unequal one, unless it were proportioned to every person's circumstances; and as this is hardly possible, I believe it was the principal reason for laying that method of taxation aside. This Bill therefore, if passed into a law, can no way contribute towards resuming such a method of raising money; and as to the amount of the poors rates in every parish, an authentic account of it would, I am persuaded, be one of the strongest arguments that could be made use of against a new assessment, or any augmentation of the land tax.

It is from hence evident, Sir, that no jealousies or fears can with any sort of ground be propagated from any thing that can be now designed, or hereafter founded upon the Bill now before us, especially upon that part of it which relates to the legislature having an authentic account of the number of our people, and of their annual increase or decrease, which, as I have shewn, may serve for many useful purposes. And as to its having any effect upon the next general election, if it has any, I believe it will be a good one in favour of those who have appeared as advocates for the Bill; because the people will by that time be convinced, that they have employed their thoughts for the public good, and have promoted a law, which, if duly executed, will be of the greatest use to society. But I must observe, that the next general election will probably be over, before that part of the Bill which relates to the numbering of the people begins to take effect.

To conclude, Sir, with the objection which the hon. gentleman was pleased to make against registering the names of the parents of bastard children, or of children born in concealed wedlock, I do not think that either of these cases deserves much the attention of the legislature. But if they did, there is no necessity for altering the words of the Bill on that account; for such children, if the parents have any

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prudence, are always put into the custody or keeping of nurses, who know nothing of the father or mother; and though they must take care to get the child's birth and name registered, they are not obliged by the words of the Bill, as they now stand, to declare the name either of the father or mother. However, Sir, I shall not take upon me to say, that the Bill is so perfect as to require no alteration or amendment; but if any such should afterwards appear to be absolutely necessary, we shall best understand how to make them, after we have begun to see the Bill carried into execution; and as I approve of the general scope of it, and can at present see no necessity for any alteration, I shall be for its passing into a law.

Mr. *William Thornton*:

Sir; ever since the first mention of this Bill I have attended with all possible attention to every thing that has been said in favour of it, and as yet I cannot comprehend what real service it can be of to the community. If it had been introduced and supported by less able advocates, I should have been apt to impute my want of comprehension to my own incapacity, as it seems to be favoured by a majority of this House: but as I know the abilities of the hon. gentlemen who are the promoters of it, I am sure that, if it had been possible to shew the utility of it, they would have made it evident even to the meanest capacity; and therefore I must conclude with the majority without doors, that the favour it meets with proceeds from something that has not yet been explained. To those that are in the secret this may be a good reason for passing it into a law, but to me who am ignorant it has the quite contrary effect, because I am, and I think I ought to be jealous of every measure, whose true cause will not bear an explanation.

It has been said, Sir, that an authentic knowledge of the number of our people, and of their annual increase or decrease, will instruct us when to encourage, and when to restrain people from going to settle in our American colonies. Sir, our people going or not going to America does not depend upon the public encouragement or restraint, but upon the circumstances they are in at the time. Let the number of our people be never so much increased, those who can easily find the means of subsistence at home neither will go, nor ought we to encourage them to go to America; and let that number be never so much diminished, we ought not to restrain those from going thither who can find no way of subsisting at home; for it is better they should go and live by their industry there, than that they should live by pilfering, or be supported by their parish at home. Therefore we should never think of preserving or increasing the number of the people in this island by restraints, but by removing every obstacle that lies in the way of their gaining an honest and comfortable livelihood by their industry, which we have rendered almost impossible by our taxes upon all the conveniences, and many of the necessaries of life, and upon all foreign materials for manufacture. It is this, Sir, that makes such numbers of our people glad to get away to America: it is this that prevents the increase of our people by marriage; for no considerate poor man will take upon himself the burden of a family, when he finds he can hardly support himself by the most incessant labour, so that we can expect no supply by marriages among the poor, unless it be from the most inconsiderate; and we had yesterday a Bill brought down to us which will prevent any supply even of this kind; and it is this, Sir, together with the great encouragement given to alehouses and gin-shops, for the sake of increasing our excise, that brings such multitudes of unfortunate wretches to Tyburn, and makes it unsafe to travel our high-ways, or even to walk our streets. Will any of these causes be removed by our knowing the number of the people in this island, or our having an authentic account of their annual increase or decrease? Will not every one of these causes be rendered still more fatally effectual, by our laying such a new burden upon our industrious poor as is proposed by this Bill? It was not singly, Sir, the transmigration of the people from Spain to America, that so much dispeopled that country. There were many other causes concurred. They had but just before driven out a vast multitude of Moors and Jews, and their religion, together with the inquisition which they had just set up, prevented their getting a supply of people either for replacing those they had driven out, or those that were afterwards tempted to go in quest of riches to America. To this we must add the natural pride and laziness of the Spaniards, and the turn given to the spirit of the people by the ambition of Charles the 5th and Philip the 2nd, who encouraged no art among them



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but the military, and wasted the blood of the people, as well as the treasures they brought from the Indies, in foreign wars, which were continued with very little interruption for a hundred years after the discovery of America.

Then with regard to the use which, it is said, this knowledge may be of in case of our being engaged in a long war, it is founded upon a supposition, that men who have been guilty of no irregularity, may be pressed into the service, which is neither consistent with our constitution, nor can ever be necessary in any war carried on upon a national account, for in every such war we have always found, and, I hope, shall always find our people ready enough to engage in the service of their country. It is true, our people cannot well understand what our modern politicians call a balance of power, nor can they comprehend why they should, at the expence of their own blood and treasure, conquer towns and provinces for others; but they have never yet refused to sacrifice both, when they thought the interest or glory of their country really concerned. Even in the wars which were carried on by our Edwards and Henrys for the conquest of France, they have never had the least occasion, nor did they pretend to any right or power to press men into their service; and that of pressing seamen into the service is but of a very modern date. Indeed, we have of late years treated both our soldiers and seamen in such a manner, that I do not wonder at the common men being very unwilling to enter into the public service, because they thereby become slaves for life. I say slaves, Sir, for I look upon every man as a slave who is bound to serve another during his whole life, as our seamen and soldiers are, unless voluntarily discharged by their commanders; and what is still worse, they cannot prevent this by any previous contract; for should they list only for a certain term, they cannot compel their commanding-officer to discharge them at the end of that term, and if they should leave the service without a proper discharge, they would be liable, as our Mutiny Act now stands, to be shot for desertion. Therefore, however much, or however long, the legislature may connive at the pressing of seamen, I hope it will never connive, much less authorise the pressing of men into the land service, unless it be such as may justly be called vagrants; and if any thing of this kind be intended by this numbering scheme, the people have good reason to be alarmed.

Again, Sir, as to the militia, if ever our advocates for a mercenary standing army should think fit to agree to any scheme for establishing an useful militia, I hope it will be such a one as will invite, not press, men into the service: if ever such a scheme should be established, we shall find in every parish more men than we can have occasion for, who will desire to be listed in that service, and of all such we ought, and I hope, shall chuse those of the greatest property and best character. In the hands of such a military force, and in theirs alone, our constitution and liberties can be safely trusted, and upon them we may most securely depend for our defence against any invasion: for I shall never be for our having such a militia in this country as they have now in France, which serves chiefly as a nursery for recruiting or augmenting their mercenary standing army in the most speedy manner, either for pursuing their ambitious projects against their neighbours, or for compelling their own people to submit to the most oppressive measures of a wicked administration. Such a militia would be a sort of masked battery against the liberties of the people, if we should ever have the misfortune to fall under the dominion of an ambitious, tyrannical prince, or of a weak prince governed by a favourite minister, whose preservation depended upon the destruction of our constitution; and therefore if I thought that this numbering scheme could any way contribute towards the establishing of such a militia, it would add zeal to my opinion, and vigour to my opposition.

Thus it appears, Sir, that this Bill, so far as relates to the taking annually an account of the number of the people, cannot serve any of those useful purposes, which the ingenuity of its friends has been able to suggest. The truth is, it cannot, in my opinion, serve any good purpose: it may furnish some sort of satisfaction to a vain and useless curiosity; but at the same time it will furnish a foundation upon which some dangerous and pernicious projects may hereafter be erected; therefore, this part of the Bill I should be against, even though it were to be attended with no expence or trouble to the people; and as to the other parts of it, I am afraid that every one of them will do more harm than good. The expence of keeping a register of births and funerals

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will be a considerable addition to the poors rates in many populous but poor parishes, and I do not see what use it can be of; for I hope you would not make this register an incontestable proof either of the birth or the death of the person therein mentioned; and if a false entry should be made of any supposititious birth, which might frequently happen, it would bring the next heir under a very great difficulty to make good his right to the estate of his ancestor or relation. Then as to all persons born abroad, not the least care is taken of them; so that this register would, in my opinion, render law-suits more frequent and more expensive than they are at present. And as to the register of marriages which by this Bill is to be established, in the first place, it would prevent numbers of people from being married according to the rites of the Church of England, because there are every year numbers of people married, who do not chuse to have their marriage made public: and in the next place, if you should make the register an incontestable proof of the marriage, or if our judges should shew great regard to it upon every trial, it would occasion a multitude of frauds, especially of that sort which, I am told, has been of late several times practised; I mean that of a woman's getting some fellow to assume the name of a gentleman of fortune, to go and take out a licence in his name, and with this licence to go and marry her in his name at some parish-church or regular chapel; for we know that a licence may be had in any name, and by any man that can pay for it, if the gentleman whose name is assumed happens not to be known at the office; and many clergymen are but too ready to marry those who come with a regular licence, without having any knowledge of their being the persons whose names are in the licence. Therefore, if you do establish a register for marriages, I hope you will provide, that no minister officiating at any parish church or chapel, shall solemnize or register any marriage, unless he knows the parties, or shall be assured by persons whom he does know, and who shall be witnesses to the marriage, that neither of the parties to be married does fraudulently assume the name and character of any third person; and upon this occasion I must say, I am surprised, that the gentleman who had the drawing up of this Bill, did not provide that the names and additions of the witnesses to the marriage should be registered, as well as the names and places of abode of the parents of the married couple; but I shall be much more surprised if you pass this Bill without a proper amendment for this purpose.

How the people without doors in general stand affected towards this Bill is, I find, very much disputed; but from what I have heard myself, and from what several gentlemen of this House have declared, it is evident that great multitudes at least, if not the generality of the people without doors, are afraid of its consequence; and this I think sufficient for me not to give my consent to the enacting of such an useless and unnecessary law. But supposing it were really as useful as some hon. gentlemen have endeavoured to represent, surely they will not say, that the nation can suffer any prejudice by delaying it until the next session, and as little will they say, after the many imperfections that have been taken notice of, that it does not stand in need of several amendments. This, surely, ought to be a prevailing argument even for their agreeing to put it off for this session; and I must observe, that though the election for the next parliament may perhaps be over before the numbering scheme begins to take effect, yet the suspicion of the dangerous consequences of this scheme has already begun, and cannot be over, no not for some years after the next general election. This suspicion will certainly have a considerable effect in every populous election, and even perhaps in some of those little boroughs which gentlemen may think themselves sure of at present. I do not mention this, Sir, as an argument for putting off the Bill, with those who think it so extremely useful, that it ought to be passed as soon as possible; but with those who think the nation cannot in the least suffer by delaying this Bill for a year or two, it is a prudential argument that may be allowed to have some weight; for even the most sublime degree of virtue will admit that gentlemen may consider a little their own interest, when the public can thereby no way suffer; and therefore no such gentleman can be blamed for concurring with me in giving his vote for the motion made by my hon. friend, that this Bill be read a third time on this day two months.

The Earl of *Hillsborough*:

Sir; it is with great pleasure I

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have observed through this whole debate, as well as several others that have happened of late, that there seems now to be no party or faction amongst us. Time has been when party spirit prevailed so much in both Houses of Parliament, that one party would oppose the most useful regulation, for no other reason at bottom, but because it was proposed by the other party. By this means one of the most useful and one of the most necessary Bills that was ever brought into parliament was lost; and when I say this, I believe, I need not tell gentlemen that I mean the Bill for appointing a general register over the whole kingdom for land estates. If the preventing of frauds, if the preventing of law-suits be a public good, that Bill surely was calculated for the public good; and it was such a popular Bill that, I believe, hardly any man durst own without doors his being against it, yet it was defeated by a party within, merely because it was proposed by the other party, and because they might reap some particular advantages from it. Thank God! at present, though we may be of different opinions, as indeed in such a numerous assembly we generally must, especially in matters of a political nature, where something may always be said against the best, or in favour of the worst proposition that can be brought before parliament, yet it must be acknowledged, that no party spirit has ever any influence in forming those opinions; from whence we have good ground to expect, that reason and truth will now have fair play, and consequently will at last prevail; therefore this is the most proper time for proposing and pushing every new regulation, that is calculated purely for the public good.

How long we shall continue, Sir, in this happy situation no one can tell: it may be very much changed before next session: for a party spirit often creeps into an assembly when least expected, and too often without any just cause. Therefore, if this Bill be for the public good, we ought to lay hold of this favourable opportunity for passing it into a law, notwithstanding any little defects or oversights it may be charged with; for it is much easier to prevail even over a party spirit, in amending or explaining a law already enacted, than in passing a new law; and as I am fully convinced, that the general scope of this Bill is calculated for the public good, I shall be against putting it off to the next session, not only because I think it has a better chance for being now agreed to, than it may, perhaps, have a twelvemonth hence, but because no human prudence is capable of foreseeing whether a society may or may not suffer by being a year without a good and useful law. For this reason, without pretending to any sublime degree of virtue, I think myself in duty bound to contribute all I can towards this Bill being passed into a law as soon as possible, without any regard to the effect it may have at the next general election; for I should think myself very unworthy of a seat in this assembly, if I regulated my conduct whilst I am here, with a view towards my obtaining the same honour in a new parliament. But, indeed, as to this I am not upon the present occasion under the least pain; for if any one man should become my enemy on account of my having been a friend to this Bill, I am convinced, that, when it is maturely considered, two will upon the same account become my friends, as all unprejudiced and sensible men must then, I think, see that every part of it is calculated for the public good, without any bye-end whatsoever.

When I say this, Sir, I must suppose, that the hon. gentlemen who have spoke against the Bill, have not yet duly considered it, or at least that they do not view it in the same light I do; and I must say, I was surprized to hear it insisted on, that our people going or not going to settle in our American colonies no way depends upon the public encouragement or restraint, but upon the circumstances they are in at the time. Does any one think that Georgia would now have been settled, if the public had given no encouragement for people going to settle there? Can it be thought that such numbers of our people would, or could have gone to settle in Nova Scotia, if the public had not encouraged and assisted them? I shall grant, Sir, that some people go to settle in our colonies because they cannot, or, perhaps, dare not live at home; but multitudes of people go thither yearly, who might live very well at home, and for no other reason but because they hope to live better, or to earn more money in those countries than they can do at home, in which they are encouraged by hearing every day of poor people having in a few years got great estates there. The same hopes, and the same sort of information, brings multitudes of people from Ireland, from all parts of the country, to London, some of whom have the good luck to thrive very well, but



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many of them have reason to repent their having ever left the place of their birth; and if we knew the numbers of people, and their annual increase or decrease, no one can say that it would not sometimes be for the public good, to lay a restraint upon poor people leaving the place of their birth without leave from the magistrates of the place, who might be obliged to grant it, or to find them employment at home; for in all conditions of life there are people whose hopes are so sanguine, that they are apt to leave a place where they may live very well, though they have no reasonable prospect of being able to live better in any other, and to such people it would be doing them a service to lay them under some restraint; but without such an account we can have no rule whereby to determine, when we should encourage or restrain the transmigration of people from any one part of the British dominions to another, or when we should at the public expence encourage foreigners to go and settle in our colonies, which we certainly ought to do, if it should appear, that the number of our people is upon the decline at home; and which the Spanish government as certainly ought, and probably would have done, if by any such regulation as this they had been made sensible of the decrease of the people in Old Spain; for though I shall grant, that other causes concurred for dispeopling that pleasant and healthful country, yet I must be of opinion, that their allowing so many of their people of all ranks and conditions to go and settle in America, was the chief cause of this fatal effect.

It is therefore evident, Sir, that even the numbering scheme, which is proposed to be established by this Bill, may hereafter be of great use, even in time of peace, by instructing us when we are to encourage or restrain our people going to settle in America; and in time of war the uses that may be made of it are innumerable; for by knowing the numbers and ages of the men in all our maritime parishes, we shall be able to calculate more nearly than we can do at present, what number of seamen we have in the kingdom, and we may in time from hence form some regular method for supplying our navy at all times without pressing, which I must admit is so inconvenient and oppressive, that nothing but the necessity can excuse it; and the same supreme law may, if not prevented by some new regulation, oblige us to press men into the land service; for I was surprised to hear it said, that no such thing can be done by our constitution. It is true, that no man can, nor ever could be forced to serve the king in his armies beyond sea; but in the case of an invasion or a rebellion, will it be said that men might not have been, or may not now by our constitution be pressed into the land service? whilst our military tenures continued, it is well known, that every man who held by military tenure, was in every such case obliged, when called on, to repair to the king's standard: the sheriffs likewise had great power over what was called the *posse comitatus*, and might in many cases oblige people to take arms; and every one surely knows, that as the law now stands the militia may upon any such occasion be called to arms, and every man charged to the militia must either find a man to serve for him, or must serve in person. Therefore it cannot be said, that no man can by our constitution be pressed into the land service; and indeed it would be a ridiculous constitution, if our government were not provided with a power to compel men to take arms for the defence of their country. Upon this subject we must therefore always take care to distinguish between the land service beyond sea, and the land service at home; but even beyond sea, considering our dominion of Ireland, and the extensive dominions we now have in America, a war may happen, wherein the parliament might think it necessary to pass a temporary law for pressing men into the land service beyond sea; for can it be supposed, that the parliament would suffer Ireland or our American plantations to be torn from us, rather than pass such a law? And if ever such a case should happen, would it not be of great service to know before-hand the numbers and the ages of the men in every parish of the kingdom? because the emergency might very probably be so sudden, as not to allow time for our acquiring that knowledge after it had happened.

Thus, Sir, it appears, that even that part of the Bill which relates to the taking and keeping an account of the numbers of the people, will be of great use to the public; and as to that part which relates to the keeping of an exact register of the births, funerals, and marriages, it may be so easily and at so small an expence carried into execution, and will serve so many good purposes, especially that of preventing law suits, that I wonder to hear it found fault

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with. The expence even in the poorest and most populous parish will be but a trifle; and if some should chuse to be married by dissenters for the sake of concealing their marriage, I am persuaded, many of the dissenters, and in much greater numbers, will chuse to be married according to the rites of the Church of England, for the sake of publishing their marriage and having it duly registered. With regard to marriage I shall grant, that it would be proper to have the names of the witnesses inserted in the register; but this, I hope, the minister will do without any express direction in the Bill; and the fraud which an hon. gentleman mentioned may be provided against by some future Bill, though it is not of such importance or so frequent as to require an immediate amendment. Before next session we shall be fully apprised what amendments may be necessary, as well as how to make them; and then, I hope, this, which is entirely a new regulation, will be made altogether perfect, and by being completed before the expiration of this parliament, it will for ever remain as one of the many monuments to the glory of this remarkable parliament, which, in conjunction with his majesty, has restored and established the peace of Europe, and has gone a great length in providing for its preservation, I hope, for many years to come, notwithstanding the restless ambition of some of our neighbours.

The Bill was then read a third time and passed; but the Lords at the second reading threw it out.

*Debate in the Commons on the Jews Naturalization Bill.**] April 17. A Bill, which had been passed without much opposition in the House of Lords, intituled, 'An Act to permit persons professing the Jewish religion to be naturalized by parliament, and for other purposes therein mentioned,' was sent down to the Commons, where it was read a first, and ordered to be read a second time.

May 7. The said Bill was read a second time, and on the motion that it be committed the following debate ensued:†

Mr. *William Northey* rose and said:

Sir; I hope some of the gentlemen, who are advocates for this Bill, will rise up and inform the House, what terrible crime the people of this kingdom have committed; for I must suppose, that they have been guilty of some heinous offence, because we have of late had some sort of Bill offered every year to parliament for depriving them of their birthright: I say, depriving them, Sir; for the communication of a privilege is, in so far as that communication reaches, a taking it away from those who had before the sole right to it. Attempts have formerly been made to rob them of their birthright as Englishmen, but this Bill I must look on as an attempt to rob them of their birthright as Christians. We know what a curse Esau brought upon himself and his posterity, by selling his birthright to his brother Jacob for a mess of pottage, when he was faint and at the point of dying for hunger: his posterity were to serve the posterity of Jacob: ought we not to fear, that this may be the fate of our posterity, as we are now about to sell our birthright to the posterity of that same Jacob? Sell, I should not say, Sir, for we are going to act more foolishly than Esau: he sold his birthright for a mess of pottage, and when he was under a most urgent necessity: but we are going to give it away for nothing, and when we are under no necessity. Our national debt is, it is true, become monstrously great, so great that, I believe, we should be under great difficulty to find means for supporting another war, should such a misfortune soon happen; but till then we can be under no necessity, and even then we should not, I think, part with our birthright for nothing.

Sir, when I say we should not give away our birthright for nothing, I must suppose, that we might sell it for something; and I am warranted in this supposition from what is told us by our histories. The Jews never did obtain the protection or countenance of the crown, even for living and trading in this kingdom, without a very valuable consideration; and our histories tell us, that they offered 200,000*l.* to Oliver Cromwell for a naturalization. Moreover,

* From the London Magazine.

† "The Jews Bill occasioned great debates. The court party, who were in general for the Bill, denied that it was a Bill for naturalizing the Jewish nation. But it was answered, that a permission for them to be naturalized by parliament, amounted, in fact, to the same thing. Because, if any thing was meant by the Bill, it was, that Jews might be permitted to be naturalized, upon such and such conditions as the parliament should think proper; and that it

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I have heard, that they offered a much larger sum both in the reigns of king William and queen Anne. I may therefore suppose with reason, that they would now give a larger sum than they ever before offered, as the birthright of Englishmen is become much more valuable, and as the Jews have of late vastly increased in riches as well as numbers in all parts of Europe, especially in this country. But they may now with the poet say,

——quod optanti divum promittere nemo
Auderet, volvenda dies en attulit ultro.

For could it ever have been expected, that what they have so often offered such large sums of money for, should at last be freely granted for nothing, and even without their asking, so far as appears, and what I

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could not be supposed but that many of them would be naturalized, which might, in time, be destructive of religion, and extremely detrimental both to the clergy and the common people. It was said, that the Jews, by their being naturalized, would acquire a right to purchase land estates, and thereby of having advowsons and presentations to livings in their possessions, which might be attended with the worst of consequences to the established church. That their manner of living was destructive to all hospitality and good neighbourhood amongst Christians; that their hatred to our religion might induce them to make combinations amongst themselves, which would, in the end, prove destructive of it; and with regard to manufactures, that none of the Jews were manufacturers, but subsisted entirely upon their brokerage for the labour of others.

"Some provision was made in the Bill against Jews getting possession of advowsons and presentations to livings; but the other principles against the Bill were strongly defended by the favourers of it. The great utility of having a set of monied men residing in the kingdom, and exerting their influence over, almost, all parts of the world, in favour of English manufactures, was strongly insisted upon; and the great expediency, founded on experience of naturalization bills of all kinds, were thought to be such arguments, as recommended this Bill to the public.

"In this question, the parliament had great consideration to the sentiments of the people. An appeal was made without doors in print, to the principles of the constitution, and particularly to the famous act which had been made against the Jews before, and after their expulsion in the reign of Edward 1. Many ancient authorities, some of them produced from original records, were advanced on both sides; but both of them mistook the main point. For though it was plainly proved, that the Jews, at that time, lay under many, and those infamous, disabilities by acts of parliament, which were pretended to be still subsisting, yet, had the authors on both sides, who handled this question, dipped, a little deeper than they did, into ancient records, they would have found, that the disabilities and the censures they lay under, was not imposed upon them on account of their religion as being Jews, but on account of their usury and exactions; and that if a Christian had been guilty of the same crimes, he must have been subjected to the same penalties. The question was debated perhaps, with more heat without doors, than it was within; but a vast majority of the public was against the Bill, which ought to have been a sufficient inducement for its being dropt, entirely upon the prudential consideration. A great query upon this occasion arose, whether a Jew, born in the British dominions, (supposing the act to be out of the question) was a person capable by law to purchase and hold lands to him and his heirs for ever. Sir Robert Raymond, attorney general in 1718, was clearly of opinion in the affirmative, and so was sir Thomas Bottle in 1723. Mr. Pigot, who seems to have been the only lawyer that understood the question, expressed himself thus: "I am of opinion, that a Jew that is his majesty's subject, born in England, or who has obtained letters patents of denization, may purchase lands. The statute de Judaismo, and the other old statutes, relate to usury; and there is not in them, any thing that disables them to purchase. In ancient times, people excommunicated, lepers, Jews, and many others were disabled to purchase, as appears by Bracton and our old authors: but I am of opinion, a Jew may purchase, because I know no law that disables him or deprives him of that right of purchasing he acquired by his being an English subject."

"In short, most of the common lawyers were of opinion, that Jews, natural born subjects of Great Britain, might purchase and hold lands. A great deal was likewise said concerning the right of denization, which all foreigners, and Jews amongst others, acquired by residing seven years in the British colonies. Notwithstanding all those arguments in favour of the Jews, the matter, upon the face of the old constitution, was certainly misunderstood by the advocates for them, who could not deny that while they lived in England, they were the king's property, and that they had no benefit of the protection of the law, but what they had from his prerogative. This assertion, (which undoubtedly was true) by not being explained had great effect on the minds of the public; and some persons within doors, who were no friends to the minister, slackened in their opposition to the Bill, because of the unpopularity which they knew it would occasion. Some debates, indeed, and those very strong ones, passed in the House of Commons, and the earl of Egmont spoke most excellently, and almost prophetically, against the Bill; which at last, however, passed both Houses, and had the royal assent." Tindal.

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indeed believe to be really the case? But whatever I believe, whatever may be known by some gentlemen in this House, it will not be believed without doors, that such a signal favour has been granted for nothing: it will be suspected, that a large sum has been paid for it, and as this is kept secret, as no part of this sum is to be applied either to the public service, or to the discharge of our national debt, the people without doors will conclude, that though they do not sell, they are sold, which will tend to raise a popular discontent against our present administration, and may tend to raise popular disaffection to the present illustrious family upon the throne; therefore I am surprized to see this Bill patronised by any who have the honour and advantage of being employed by the crown, or by any who pretend to be real friends to his majesty; unless the pushing of it through both Houses of Parliament be intended as a compliment to the crown, that his majesty may have an opportunity to gratify his people by rejecting it, when it comes to be laid before him for his royal assent.

This, indeed, Sir, would be an excuse for the Bill being patronised by those who pretend to be friends to his majesty and his family, and should the Bill pass this House, I hope he will make the proper use of it; for whatever offence the people of this country may have committed against some of our ministers, I am sure they have not of late committed any offence against his majesty or his illustrious family. On the contrary, their ready submission to all the additional loads that have of late years been laid upon them, and in particular the zeal they shewed upon a late memorable occasion, for the support of our present happy establishment, entitles them to all the favours that can be bestowed by the crown, and surely, much more to that of being preserved in the possession of that privilege which belongs to them as Englishmen and as Christians. But a notion has of late years been propagated by some notional gentlemen, that the birthright of an Englishman is a right which is so far from being worth preserving, that it is prejudicial to the community, and that therefore it ought to be abolished; for so it will be, should it ever be granted to all those who are not by their religion declared enemies to the continuance of our present royal family upon the throne of these kingdoms. How this notion has been taken up, I cannot comprehend: for I am sure it is not founded upon the example of the ancient republican government of Rome, which these notional gentlemen seem so much to admire. The old Romans were so far from granting the privilege of being free citizens of Rome to every one that asked it, that by refusing to grant it to those great cities of Italy which had been long under their dominion, and which had contributed greatly towards extending their conquests, and enlarging their empire, they brought upon themselves one of the most dangerous wars they were ever engaged in: I mean, the *sociale bellum*, in which most of the great cities in Italy were associated against them; and though they were at last obliged to grant this privilege to the people in Italy, and often in gratitude granted it to particular cities, yet it was never granted to those of the provinces in general, and even under their emperors, it was for some time purchased by particular men at a great price, as we are informed by the most authentic history we have, even that of the Acts of the Apostles.

I know very well, Sir, upon what these naturalization schemes are founded: gentlemen have heard it laid down as a maxim that the strength of a country depends upon the numbers and the riches of its people; and this maxim they adopt in general, without considering, that it must always be accompanied with two necessary conditions, one of which is, provided the people be unanimous, and all ready to cooperate for the public good, or for the defence of their country: for if the people be divided into sects or parties, and every one ready to sacrifice his country to what he thinks may be of advantage to his sect or party, their numbers only serve to breed confusion, and to furnish fuel for the flames of disorder or civil war: and the other condition always necessarily attending upon this maxim is, provided the people have courage, arms, and military discipline sufficient for defending the riches they possess; for otherwise their riches serve only as a temptation for their being invaded, as it may often be impossible for them to procure mercenary troops, and they are always in danger of being subdued and plundered by those very mercenaries they hire for their defence.

Thus, Sir, with these two conditions the maxim must be allowed to be a just and right one; but these two conditions must always be carefully attended to by those

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who live under a free government, and have a mind to preserve that happiness; for in absolute and arbitrary governments, I shall grant, these conditions are not so necessary, because the people have no share in the government, which is always supported by a standing mercenary army; but then the strength of such a country does not depend so much upon the numbers or riches of the people, as upon the numbers and discipline of its armies; and those armies are not actuated by principle but merely by self-interest: whereas, even the armies of a free people must be actuated more by principle than by self-interest, otherwise an end will soon be put to their being a free people; and that principle, which is founded upon religion, has always appeared to be the most cogent and the most to be depended on. It is for this reason, that what has of late years been called liberty of conscience, may be, and generally has been, more indulged in absolute governments, than in any sort of democratical government: for what in this country we call liberty of conscience, that is to say, a liberty not only to profess openly, but even to propagate whatever sort of religion a man pleases, has too often been made a pretence for forming a party against the government. When I say this, I hope I shall not be supposed to mean, that people ought to be persecuted for the sake of religion; but there is a very great difference between this and allowing enthusiasts and sectaries of all sorts, and now at last Jews, to have a share in our government: I say, a share in our government, for by this Bill, and by the doctrine lately established by our lawyers, a multitude of Jews, may have votes for members of parliament, and we may soon have some of them in this House.

Having mentioned the doctrine lately established by our lawyers, I must observe, Sir, that if this doctrine holds, if it be true, that a Jew born in any of the British dominions is a natural born subject, and notwithstanding his continuing a Jew, is entitled to all the rights and privileges enjoyed by any other dissenter from the church of England: I say, Sir, I must observe, that if this be true, there is very little occasion for the Bill now before us. The Jews born in the British dominions can have no occasion for it: they may purchase houses and gardens: they may purchase lordships and lands: they may be chosen members of this House: they may by our sovereign be made members of the other; and they may have synagogues for the propagation of Judaism in every corner of the country as well as in London. Then as to Jews born abroad, they may all repair to this happy island from the remotest corners of the earth, in full confidence that their children, or their children's children, will enjoy all these rights and privileges, and in the mean time they themselves will enjoy all such privileges as are necessary for carrying on any trade or business they may please to engage in: nay, they may even purchase houses and land estates in the name of some brother Jew, under a covenant, that upon their death he shall convey it to their son or grandson, and in the mean time allow them the possession. Therefore, upon the promulgation of this doctrine, and without our passing this invidious Bill, I shall expect to see the Jews become the highest bidders for every estate that is to be purchased in England, the counties of which, I suppose, they will at some private meeting divide among their several tribes, by lot, as they of old did the land of Canaan; and when the rich Jews have thus become possessed of land estates, great numbers of poor Jews must necessarily settle in their neighbourhood; for we know, that they can make use of none but Jew butchers, bakers, poulterers, and the like trades, which of course must make them soon become very numerous in this country, especially as they are warmly attached to those of their own nation and religion, perhaps more than any other nation or sect of religion whatever.

For this reason, Sir, I am of opinion, that without our passing this Bill, all such foreign Jews as are resolved to settle themselves and families in this country, will come over as soon as they hear of this doctrine being established; but if we pass this Bill, we may expect, that many Jews who have no design to settle here, will come over and be naturalized, on purpose that they may be entitled to claim the privileges of Englishmen, and the protection of this crown, in the several countries where they design to reside; and this will of course involve us in disputes with many of the powers of Europe, especially with Spain and Portugal. Suppose a Jew, who had appeared in Portugal as a Christian, should come over, and after being naturalized here, should return thither again and appear as a Jew, do we think, that the inquisition there would not lay

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hold of him? And if he should be condemned to suffer at one of their *Auto da Fés* for having relapsed to Judaism, what could our government do? As an Englishman they ought to reclaim him: but do we think, that the king of Portugal would, or could give him up? Suppose a naturalized Jew should go and settle in some of those countries from whence all Jews have been or may be banished, do we think, that he would be allowed to settle there as an Englishman, if they knew him to be a Jew? Again, Sir, a Jew by being naturalized would be entitled to a Mediterranean pass: could we expect, that the pirates of Barbary would let him pass as an Englishman, if they knew him to be a Jew residing in Portugal or Spain? It would be endless, Sir, to mention all the difficulties we may be exposed to by naturalized Jews going to settle in foreign countries as Englishmen, especially, if in confidence of our protection, they should there openly profess their being Jews. Therefore, as there is no great occasion for this Bill, and as it will be attended with innumerable bad consequences, I hope it will not be committed.

Lord *Dupplin*:

Sir; if people would but read the Bill now before us, and consider the law as it stands with regard to naturalization and natural born subjects, I am persuaded there could be no opposition to the Bill within doors, nor clamour against it without. But the Bill is generally mistaken by the people without doors, and, I believe, by too many within; they look upon it as a Bill for a general naturalization of the Jews, and as such they exclaim against it as a measure that was never before attempted in this country. I therefore hope, Sir, the House will give me leave to open the true import of the Bill, and to explain how our law stood formerly, and how it stands at present with regard to the naturalization of the Jews. Before the reign of James 1, or rather before the 7th year of that reign, the king and parliament had a power to naturalize any foreigner whatsoever, let his religion be what it would; but as we had then but lately got rid of the Popish superstition, as we had still a great number of Papists amongst us, and as the execrable Powder Plot had most reasonably given us a fear and an abhorrence against all people infected with that terrible distemper of the mind, therefore it was resolved, that no foreigner so infected should afterwards be naturalized: and in pursuance of this resolution, a law was then passed, by which it was enacted, That all such as were afterwards to be naturalized, or restored in blood, being of the age of eighteen years, or upwards, should receive the sacrament of the Lord's-Supper, and the oaths of allegiance and supremacy, that is to say, the sacrament of the Lord's-Supper, within one month before the Bill for their naturalization should be exhibited, and the oaths of allegiance and supremacy at the usual time of passing the same.

This restraint, Sir, both king and parliament then thought it necessary to lay themselves under in order to prevent the introduction of any more Papists into the kingdom; but by this they likewise rendered it impossible for any Jew to be naturalized, whatever merit he had to plead, and however necessary his naturalization might appear to be for the good of the nation in general: thus the law has stood in general ever since that time; but the parliament has since, for the benefit of our trade and commerce, made two encroachments upon, or alterations of this legal restraint; for by an act passed in the 15th year of Charles 2, it was enacted, That foreigners who should for three years exercise in England, Wales or Berwick, the trade of breaking, hickling or dressing hemp or flax; or of making and whitening thread; or spinning, weaving, making, whitening, or bleaching cloth made of hemp or flax only; or of making twine or nets for fishery, or storing cordage; or making tapestry hangings; should, upon taking the oaths of supremacy and allegiance before two justices of peace, enjoy all privileges as natural born subjects: and by an act passed in the 13th year of his present majesty all foreigners who should reside for seven years in any of our colonies in America, and should take the oaths appointed by an act of the first year of his late majesty, should be deemed his majesty's natural born subjects of this kingdom. By both these acts, therefore, even foreign Jews may be naturalized notwithstanding the act of James 1, and we may observe a remarkable difference between the spirit of the times when these two acts were respectively passed. In that of Charles 2, there was not the least care taken to exclude such Papists as are willing to take the oath of supremacy; but in that of his present majesty there is an



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express proviso, that no person, except Quakers and Jews, should by any thing in that act be naturalized, unless such person shall have received the sacrament of the Lord's Supper in some Protestant or reformed congregation in Great Britain, or some of our colonies in America, within three months next before his taking the oaths, of which he is then to produce a proper certificate.

Thus, Sir, gentlemen may see, that by means of these two acts many Jews may get themselves naturalized, notwithstanding the act of James 1, but these can only be of the poorer sort; for we cannot expect, that a Jew worth 50 or 100,000*l.* will go to America, or engage in any of the manual trades mentioned in the first of these acts, in order to obtain a naturalization in this country; and yet such is the lenity of the government, and the security of property in this country; and so many are the advantages of trade, which may be reaped by a man's living here, that many rich foreign Jews would certainly incline to come and settle here, if it were possible for them to be naturalized. But this cannot be done even by king and parliament, whilst this act of James 1, remains in force: for by that act no member can present, nor can the House receive a Bill for the naturalization of any person, if such person has not received the sacrament of the Lord's-Supper, within one month before presenting the Bill for his naturalization. Now all that is intended by the Bill now before us, is only to enable the parliament to naturalize a rich Jew, without his receiving the sacrament of the Lord's-Supper, in case he should desire it, and the parliament should think fit to grant the favour: there is no such thing designed as a general naturalization of the Jews; nor can it be supposed, that any poor Jew will be naturalized in consequence of this Bill, because of the great expence that attends every Bill of naturalization; nay, even as to rich Jews the parliament may as often, and when it pleases, put a stop to their naturalization, by refusing to grant leave for bringing in a Bill, or by rejecting the Bill after it is brought in, which the parliament would certainly do, if any danger would begin to be dreaded from too great an increase of their numbers, or if any particular Jew should be suspected of a design to get himself naturalized on purpose to go and reside as an Englishman in any foreign country.

Therefore, Sir, if it were possible to apprehend danger, from too great an increase of Jews in this country, or from their becoming possessed of too great a share of our land estates, or from our being involved in disputes by naturalized Jews claiming the privileges of Englishmen in any foreign state, no argument can be drawn from such apprehensions, were they as real as they are chimerical, against the Bill now under our consideration, because it leaves the naturalization of every particular Jew under the examination and controul of parliament. And as the Jews by their great command of money, and by their extensive correspondence in all parts of the known world, do increase the commerce of every country they repair to, it is certainly the interest of every trading or manufacturing people to invite, or at least to render it possible for the rich Jews to come and live amongst them. This, Sir, is an unanswerable argument for the Bill now before us, and at present we have another argument equally strong and more pressing. Every gentleman must suppose, that a very considerable part of our public funds belongs to Jews born and residing in foreign countries, consequently the yearly produce of those funds, or a great part of it, must be spent abroad, and of course must be an annual drawback upon our general balance of trade. Is it not then our interest to invite those people to follow their money, and to come and spend their yearly income in this country, instead of spending it abroad, perhaps among our most avowed enemies? I shall not pretend to ascertain the share of our public funds belonging to such Jews; but I am very certain, that if we could bring them all over, it would add greatly to the produce of our public revenue, and would prevent a very large sum from being carried out of this country yearly, if the balance of trade be against us, or upon a par; and if the balance of trade be in our favour, which, I hope, it is, it would add yearly a large sum to our national stock of gold and silver.

As to what the hon. gentleman was pleased to say, Sir, about our selling or making a donation of our birthright, I must beg his pardon to observe, that it is rather declamation than argument: a privilege, or if the gentleman pleases, a birthright, which may be communicated without doing an injury to those formerly possessed of it, is not taken away by com-

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munication; and as to all the privileges now communicated by naturalization, this is the very case: no Englishman can properly be said to be hurt by the communication, because he can no way suffer, unless he made a very bad use of the privilege he enjoyed, by making it a handle for extortion; and I hope it will not be said, that a man is hurt by preventing its being in his power to practise extortion. But for God's sake, Sir, what are we to do by this Bill? What rights, what privileges, are we to communicate? Not so much as one, Sir, as will appear to every man that reads the Bill, and attends to what he reads: we are only to enable the parliament to communicate to a rich Jew born abroad, those rights and privileges which will belong to his children or grand-children, if born here; and supposing that poor Jews could or would apply to be naturalized by Bill, we are only to enable the parliament to grant them that which they would acquire, by engaging in several sorts of manufactures here, or by going to live for a few years in our colonies, and which their children born here would of course, without any of these methods, be entitled to; for I think it is now generally agreed, that a man born in the British dominions, let his parents be of what nation you will, and let himself be of what religion you will, is a natural born subject, and entitled to all the rights and privileges of an Englishman, so far, at least, as they are enjoyed and belong to dissenters from our established Church. Even a Papist born here of foreign parents, becomes entitled to all the privileges of an Englishman, so far as they are, or can be enjoyed by those of that religion in this country; and if our laws are more severe against them than those of any other sect, it is because we know from experience, that they will never be content with indulgence, nor will grant it to others where they can acquire dominion, and because we have more reason to be afraid of their acquiring dominion in this country, as their power is much greater than that of any other sect of religion.

But, Sir, from this indulgence of our laws with respect to the children of aliens born in this kingdom, the hon. gentleman has drawn an argument against the Bill now before us; for, says he, as all the Jews know, or will soon know, that their children born here will be deemed natural born subjects without any naturalization Bill, there is no occasion for the Bill under consideration; because without our passing any such Bill, all the Jews who think of settling their families here, will come over as soon as possible, that their children born afterwards may be entitled to the rights and privileges of Englishmen. Can this argument be of any weight, Sir, with those who consider the many incapacities to which aliens are subject by our law? If an alien should purchase in this country a real estate of any kind, he cannot hold it, no, not for his life; for the moment he has purchased such an estate, it belongs to, and may be claimed by the crown: nay, he cannot hold a lease for years of any such estate, except only of a house for his habitation, in case of his being a merchant, and even of such a house the lease goes to the crown upon his death, or his leaving the kingdom, though he perhaps paid a large fine for the lease, in order to prevent his being obliged to pay yearly a heavy rent. I could mention many other incapacities, but these, I believe, will be sufficient for shewing, that no foreign rich Jew will ever think of coming to live here, while he knows it to be impossible for him to be naturalized without renouncing his religion, especially if we consider, that such Jews generally have children, perhaps grand-children, born in foreign parts, all of whom must remain during their lives under the same incapacities.

As to the unanimity of our people, Sir, I believe it can never be expected, whilst we preserve our liberties: in free countries there will always be parties and divisions; but religion has now less concern in our divisions than it ever had heretofore, which is owing to that indulgence the several sects of religion have so long enjoyed in this country; and I am fully convinced, that our established Church derives more security from that indulgence, than it could ever have acquired from the most severe persecution; for the mutual jealousy of the sectaries will always be a security for the established Church; and it is certain, that they are all zealous for the support of our present happy establishment, to which, if we allow any merit, the Jews have at least an equal claim; for they have not only contributed to the increase of our national commerce since the Revolution, but they have contributed largely towards the support of our government, not only by the taxes they pay yearly, but by the vast sums they have advanced for the public service upon many pressing occasions.



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So much, Sir, I could not in justice avoid saying as to the merit of the Jews: and as to the danger of our being involved in disputes by naturalized Jews going to reside as Englishmen in foreign countries, I think we may from experience conclude, that it is altogether chimerical. Many Jews born here, and consequently entitled to all the privileges of Englishmen, have gone to reside, and, I believe, are now residing in foreign countries; but they have always behaved with such prudence and caution, that we have never to this day been engaged in any dispute upon their account; and we must make very improbable suppositions, before we can suppose it possible, that the nation should be engaged in a dispute upon the account of any naturalized Jew, even with Spain, Portugal, or the piratical states in Africa.

Thus, Sir, as no danger can attend our passing this Bill, and as many advantages will, in my opinion, accrue from it, I hope it will not only be committed but passed into a law.

Sir *Edmund Isham*:

Sir; I agree with the noble lord who spoke last, that nothing more seems to be intended by this Bill, than to impower the parliament to naturalize such Jews as shall apply for it, without obliging them to embrace the Christian faith. Even this, I think too much in a Christian country; but whatever may seem to be intended, every gentleman may foresee, that a general naturalization of the Hebrew nation will be the consequence; for our laws are so immutable, and every subject has in this country so much security for life, liberty, and estate, that I make not the least doubt of our having every session a multitude of Jews applying to be naturalized; and as a number of them, I cannot say how many, may be included in one Bill, the expence to every one will be very inconsiderable, especially as we must suppose, that every rich Jew who is to be naturalized, will take care to have as many of his poor brethren as possible, included in his Bill, without insisting upon their paying their full share of the expence. Then, as to the poor Jews, who may not be able to get themselves naturalized, what should hinder them from following their rich brethren? They may have houses and shops for carrying on their trade; they may have licences as brokers or hawkers, without being naturalized; their children born here will, they know, be naturalized; and if they grow rich, they may themselves be naturalized by Bill, whenever they please to apply for it.

I must therefore, Sir, look upon this Bill to be in effect a Bill for a general naturalization of the Jews; and considering what infinite numbers of them are spread over the whole face of the earth, I am persuaded their numbers will increase so fast in this country, and they will get such a considerable part of our landestates into their possession, that they will soon contend for power as well as property. Let us consider, Sir, that the Jews are not like French refugees, or German Protestants: these in a generation or two become so incorporated with us, that there is no distinguishing them from the rest of the people: their children, or grandchildren, are no longer French or Germans, or of the French or German nation, but become truly English, and deem themselves to be of the English nation. But the unconverted Jews can never incorporate with us: they must for ever remain Jews, and will always deem themselves to be of the Hebrew not the English nation. Perhaps there may be some gentlemen in this House, who have never looked into the Bible since they were at school; but if these gentlemen will submit to look once again into it, they will find from the Jewish history, as there recorded, that though the Israelites were 430 years in Egypt, yet they never incorporated with that people, but kept themselves always a distinct people; and though they were but one family when they first went into that country, and for most of the time were kept in continual bondage, and numbers of their male children at last destroyed, yet when they were led out of it by Moses, they amounted to about 600,000 fighting men, besides women, children, and servants.

This account will not, I hope, Sir, be controverted either by the Jews themselves, or by their friends in this House: and when I consider this account, when I consider the numbers of them that are here already, and when I consider the numbers that will flock hither in consequence of this Bill, I do not wonder at the alarm taken by the people without doors; I am amazed how it has been possible to prevent its breaking into this House. The noble lord has endeavoured to appease this alarm, by telling us, that the parliament can put a stop to the naturalization of any more Jews, if their num-

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bers should increase so much as to become dangerous. But if those of true English blood have not now the power to prevent opening this sluice for letting the torrent in upon us, can we hope, that they will have power enough to shut it up, after the torrent is broke in, and the Jews are become possessed, not only of all the wealth, but of many, perhaps most of the land-estates in the kingdom? This hope, I am sure, is much more chimerical than the danger of our being overwhelmed by the torrent before we begin to think of putting a stop to it.

Sir, I hope I am speaking to a Christian assembly: how long I may indulge myself in this pleasing hope, I do not know; but I do not yet see a Jew amongst us,—unless it be in the gallery. If we are still Christians, it must have some weight to observe that by this Bill, and by the doctrine lately broached by our lawyers, that Jews born here may purchase and hold land-estates, we are giving the lie to all the prophecies in the New Testament, and endeavouring, as far as we can, to invalidate one of the strongest proofs of the Christian religion. By those prophecies they are to remain dispersed: they are to remain without any fixed habitation, until they acknowledge Christ to be the Messiah, and then they are to be gathered together from all corners of the earth, and to be restored to their native land; but by this Bill, and this new doctrine, we seem resolved to gather them from all corners of the earth, and to give them a settlement here without any such acknowledgment.

Can it be possible, Sir, that Christians should hope to succeed in any such attempt? Especially, when we consider how literally the first part of the Christian prophecy relating to them was fulfilled, by the terrible destruction brought upon their nation and city, soon after their imbruing their hands in the blood of our Saviour, how many of them fell by the edge of the sword, how many were led away captive into all nations, and how long Jerusalem has been trodden down by those they call the Gentiles. This prophecy has been so remarkably fulfilled, and now stands such a glaring proof of the truth of the Christian religion, that if we have faith in any thing relating to that religion, it must terrify us from attempting to give a settlement to unconverted Jews, either by act of parliament, or by wresting the common law of this kingdom. I say, wresting the common law, Sir; for the Jews, though born here, were never till lately deemed natural born subjects: they cannot, in my opinion, be as yet deemed such by common law, because they cannot take an oath; for an oath is by all our old law books defined to be, an affirmation or denial by any Christian of any thing lawful and honest, before one that hath authority to give the same for advancement of truth, calling God to witness that his testimony is true. In trials, indeed, we have been under a necessity to admit them, as well as those of all other false religions, to be examined as witnesses; but the reason of this is, because the jury are left at liberty to give what credit they please to their testimony; and if they do give credit to what they say, it proceeds more from its verisimilitude, than from the regard they are supposed to have for the oath they have taken: for I hope no lawyer will say, that as to those crimes, such as treason, where two witnesses are expressly required, two Jew witnesses would be sufficient even against a Christian. If this, by the quirks of our lawyers, should be deemed a compliance with the statutes, I could assign a reason why a wicked minister should desire to increase the number of Jews in this country; but as this, I am sure, was not so much as thought of by those who introduced this Bill, and as there are other reasons enough against it, I have no occasion for explaining myself upon this head.

In short, Sir, I think, that instead of resolving to go into a Committee upon this Bill, we should resolve to appoint a Secret Committee to enquire, whether the Jews be allowed to have a synagogue, or other place of public worship in this kingdom, and if they have, by what authority that indulgence has been granted or allowed; for I am sure, we have several express laws against it, and no law, that I know of, for dispensing with them. The Act of Toleration is so far from allowing it, that it expressly excludes from any benefit or indulgence thereby granted all such as deny the Trinity; consequently, to allow the Jews any place of public worship, or even to connive at it, is an exercise of a dispensing power, which is expressly declared to be illegal, by the Declaration of our rights and liberties at the time of the Revolution, and was assigned as the first and chief cause for our inviting over the prince of Orange, and taking arms against that unfortunate and ill-advised prince king James 2. But, Sir, if it be resolved to go into a Committee

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upon this Bill, I hope care will be taken to amend that part of it, where it is said to be, by and with the consent of the Lords spiritual and temporal: for it cannot be supposed, that the reverend bench, or any one of our bishops, advised or consented to this Bill; I hope, they have all unanimously joined in a solemn protest against it; and therefore I think, that in justice to them, and out of regard to their sacred character, the word "spiritual" ought to be left out of the Bill.

Mr. *Robert Nugent:*

Sir; although it is not very usual or proper to take notice in this House of what passed in the other, yet the hon. gentleman who spoke last obliges me to notice it so far as to observe, to the honour of the reverend bench, that the Bill now before us was opposed by very few of them. On the contrary, it was strenuously supported by some of them, which shews, that our present set of bishops have thrown off those old prejudices, and that persecuting spirit, which has for so many ages been the bane of Christianity; and that they have embraced those truly Christian principles, which so strongly inculcate humility, meekness and charity, and teach us to love even our enemies. But, Sir, it was not only from the fundamental principles of Christianity that they supported this Bill, for in duty to their religion they were bound to support, and to contribute as much as in them lay towards its being passed into a law, because it will tend towards the propagation of the religion they profess, and because it will prevent the profanation of one of the most sacred and solemn mysteries of our holy religion.

As to the propagation of the Christian religion, Sir, I do not think there is any thing that will contribute more towards the conversion of the Jews than that of freeing them from all manner of persecution, and empowering, and even inviting them to become purchasers of land estates. From all histories we may learn, that persecution on one side, begets obstinacy on the other; and from late experience we may be convinced, that a general indulgence promotes a free enquiry, and prepares the way for reason and sound argument, which will always at last prevail, when the stumbling-blocks of passion and prejudice are removed. Besides this, Sir, there is a fashion in religion as well as in every thing else: it is unfashionable to be of a religion different from that established in the country in which we live; and even in this country there are many advantages attending a man's being of the established religion; for unless he is, he can neither be a magistrate of any city or borough, nor can he hold any office of honour or profit under our government. And as I am fully convinced, that reason and solid argument are on the side of our established religion, I am therefore of opinion, that as soon as we have removed passion and prejudice by indulgence, reason and solid argument, with the assistance of fashion, and the advantages to be acquired by yielding to them, will at last prevail; and that the son or grandson of every Jew who becomes a landholder, if not the purchaser himself, will embrace Christianity, and declare himself of the religion established by law. In this opinion, Sir, I am confirmed by the example of what has passed in Ireland; for most of the landholders in that kingdom are now become Protestants. The farmers indeed and cottagers, at least such as are originally Irish, and too many of the tradesmen in their cities and villages, continue still to be Papists, but most of the landholders have now, thank God! abandoned that superstitious religion; and I do not at all wonder at it; for it is so much in the nature of mankind, whether Christian, Jew, or Gentile, after they become possessed of opulent land estates, to aim at honours and preferments, and to hate being out of fashion, that nothing can prevent their complying with this human passion, but a superstitious bigotry, founded upon ignorance, and raised to the summit of enthusiastic madness by persecution.

Now, Sir, with regard to the profanation of one of the most sacred mysteries of our religion: by the law, as it now stands, no Jew can be naturalized, without first receiving the Sacrament of the Lord's Supper according to the rites and ceremonies of the Church of England, or in some Protestant church or chapel: would it not be a most abominable profanation of this holy mystery to admit any Jew, still continuing in his heart a Jew, to be a partaker in this mystery? In the Jew himself, indeed, it would be no profanation, because he did not believe there was any thing religious or sacred in the ceremony; but in Christians, who lay him under the necessity to do so, it is a profanation, and in my opinion a very heinous offence against the religion we profess. To avoid this for the future was, I am persuaded, a

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prevailing argument with the reverend bench in the other House, and I think it ought to be a prevailing argument in favour of the Bill with every true Christian in this.

Thus, Sir, I hope I have shewn, that what is proposed by this Bill is so far from being inconsistent with our religion, that it is absolutely necessary for preventing a very great abuse, and an abuse that has actually been practised, if I am rightly informed; for I have been told that in king William's time, there were some Jews who actually complied with the law, by receiving the Sacrament, in order to their being naturalized; and, indeed, I do not see how any clergyman of our established Church can safely refuse administering the Sacrament to any man who requires it, if he professes himself of the Church of England, and cannot be accused of having been guilty of any heinous offence; for even a reputed Jew may have privately received baptism and confirmation, without its being known to the clergyman from whom he requires the Sacrament; and it is now, I think, admitted, that a clergyman is liable to an action, if he refuses administering the Sacrament without just cause, and the person requiring it suffers damage by such refusal.

I have likewise shewn, I hope, Sir, that the passing of this Bill into a law may contribute towards the propagation of our religion, by converting many of the richest Jew families, which would of course produce the conversion of many of the poor; and it can be of no dangerous consequence to our religion; for I never heard that the Jews busied themselves in making converts either in this country or any other, and, I believe, we have no reason to apprehend that any Englishman will submit to be circumcised, or swear never to taste a Yorkshire ham, or a bit of good pork or bacon. Therefore, this Bill is so far from being inconsistent with the prophecies relating to the Jews, that in my opinion it has a tendency towards the completion of them: I hope the time is now come, or near coming, when the times of the Gentiles are to be fulfilled, and not only the Jews but all the Gentiles converted to the Christian faith; for though no one can with any certainty point out the ways of Providence, yet from experience we may see, that universal charity and indulgence, which are so pathetically recommended by the Christian religion, is the most effectual method for inducing all men to submit to reason and the true principles of the Christian religion, as now professed in this kingdom.

But it is not only to our religion, Sir, that this Bill, if passed into a law, may be of advantage; it will, likewise, be of great advantage to the state, and to the nation and people in general. The Jews, Sir, by their knowledge in trade, and their correspondence over the whole known world, have been of great service in all countries where they have been encouraged to settle. They contributed greatly towards the establishment of the Dutch trade and commerce in the infancy of that wise republic; and it was they chiefly that raised the city of Amsterdam to that height of splendor and riches, at which it is now arrived. On the other hand, we know, that Spain and Portugal have been in some measure ruined by banishing them their country; for neither of these kingdoms have now any trade but to their own colonies, and even a great part of that is carried on by foreigners under the borrowed names of Spaniards or Portuguese. But, Sir, we need not go beyond sea to look for the advantage a nation may reap from having the Jews settled in it; for ever since they were re-admitted into this country, they have been in many respects useful to us. In the reign of Charles 2, when they began again to settle in this country, they contributed greatly to increase our exports; though but a few of them were in that reign admitted by letters of denization, from the king, with a *non obstante* clause in each for freeing them from the payment of the aliens duty; yet before the Revolution they began to have a large concern in our foreign trade. Of this we have an incontestable proof upon record; for these *non obstante* clauses being at the Revolution deemed and declared to be illegal, a question arose, whether these Jew denizens were liable to aliens duty, and an action was brought against some of them for no less a sum than 58,000*l.* for goods they had imported and exported during the year 1689, which shews how much the few Jews we had then amongst us contributed to the increase of our trade and commerce; for we cannot reckon the value of the goods imported and exported by them within that time, at less than double the sum laid in the information brought against them. And since the Revolution we all know how useful they have been, both by exporting our manufactures, and by supplying our government with

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large sums of money for carrying on the expensive wars we have been necessarily engaged in.

From what is past, therefore, Sir, we may judge with some certainty of what is to come, and, consequently, of what will be the effect of the Bill now before us, if passed into a law. In my opinion, it will bring rich Jews from all parts of the world to settle amongst us, which, besides increasing our trade, will be of great use to the state, whether we continue in peace, or be again involved in war. If we continue in peace, such an accession of wealth will reduce the interest payable upon our public funds below what it is to be by the laws now in being, at the same time that the consumption of these new families will increase the produce of the taxes appropriated to the payment of these funds; and if we should be unhappily engaged in a new war, this Bill will then appear to be not only useful but necessary; for as we can carry on no war without borrowing money yearly, we must find lenders as well as funds, and this Bill will furnish us with a number of persons who have money to lend, and at the same time encourage and enable them to come and spend the yearly interest of their money amongst us. That this Bill will be of advantage to the state is, therefore, evident; and it is as evident, I think, that it will be of advantage to our landholders, by raising the price of lands over the whole kingdom, which will of course occasion their improvement; for if a landholder, by laying out 1,000*l.* upon improving his estate, can add 50*l.* a year to his income, and cannot add above 30*l.* a year by laying out the same sum of money upon a new purchase, he will certainly improve rather than purchase; and the improvement is not only an advantage to the nation in general, but furnishes employment for numbers of our laborious poor, neither of which is the consequence of a man's making a new purchase. Then, with regard to our farmers, the accession of a number of rich families will of course procure them a better market for the produce of their farms; and our manufacturers of all kinds will reap an advantage not only by the increase of the consumption of their manufactures at home, but also by the increase of their exportation abroad. In short, Sir, I know no set of men in the kingdom that will not be benefited by this Bill, except those merchants and shopkeepers who love to deal at an extravagant profit; but such men, surely, deserve no encouragement, much less any privilege from the public. Thus, Sir, if we regard our interest, we must, I think, be for passing this Bill into a law.

Sir *John Barnard:*

Sir; I am sorry I should find myself under a necessity to speak against those I have long lived and conversed with, and for many of whom I have a particular esteem; but whilst I have the honour of a seat in this House, no personal friendships or connections shall induce me to keep silence, when I see any thing brought into this House, which, I think, will be not only injurious but dishonourable to my country. If this Bill had been general: if it had been a Bill to open a way for the naturalization of all Mahometans, and Pagans, as well as Jews, I should more readily have agreed to it, because it would not have brought such a reflection upon us as Christians: such a general Bill, like the late Bill for a general naturalization of all foreign Protestants, might have been deemed to proceed, as that Bill did, from some mistaken maxim in politics; but to give a particular invitation to the Jews, really seems as if we contemned, and were resolved to abandon, the religion we now profess. The Jews, Sir, are, and always have been, the most professed enemies to Christianity, and the greatest revilers of Christ himself: they are the offspring of those that crucified our Saviour, and to this day labour under the curse pronounced against them upon that account. I know, Sir, that, as a Christian, I am obliged to love my enemy; but whilst he continues to be so, no precept of Christianity enjoins me to take him under my roof, much less to put him in a way of making himself master both of me and my roof; and how the hon. gentleman who spoke last, could imagine, that the possession of a land estate should have an influence upon a man's religious principles, I cannot comprehend. If any Jew should be so loose as to all principles of religion, as to abjure the religion of his ancestors for the sake of being in the fashion, or for the sake of acquiring any honour or preferment, surely his desire of possessing a land estate will be an additional motive for his declaring himself Christian, when he finds he cannot otherwise acquire such a possession.

But, Sir, if Jews should come to be possessed of a great share of the land estates of this kingdom, how are we sure

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that Christianity will continue to be the fashionable religion, or that the profession of it will continue necessary for qualifying a man for any honour or preferment. To me it really seems at present to be the fashion for a man to declare himself of no religion; and if our fashionable gentlemen should at last fix upon any particular religion, the Jewish may, perhaps, stand as good a chance as any other; for fashion, we know, depends upon nothing but whim: and if the Jews should become our chief landholders, they will, probably, be the leaders of our whim. As landholders they will have the chusing of most of the members of this House, and may themselves be chosen; and then to intitle themselves to posts and preferments, they have nothing to do but to join with the other dissenters in getting the test act, and all the other laws for securing our established church, repealed. Whatever some gentlemen may think, if we consider their numbers, and the vast estates they have acquired in this kingdom within these last 50 or 60 years, this will appear to be no chimerical apprehension; and their having thus a view to get possession of the whole strength and power of this nation will rather confirm them in their obstinacy than induce them to turn Christian, because they will look upon it as a preparatory step made by providence, which is to be followed by their expected Messiah; but in this view they will certainly be some way or other disappointed, as they are never to have any fixt habitation until after they have acknowledged Christ to be the Messiah: and when they do this, they are to be restored to their native land; therefore the hon. gentleman is very much mistaken, if he supposes that our giving them a fixt habitation in this country before their conversion, can any way tend towards a completion of the Christian prophecy relating to them.

I hope, Sir, I have now shewn, that our passing this Bill into a law can no way tend towards the conversion of the Jews, but will on the contrary render them more obdurate; and to pretend that we ought to pass it in order to prevent a profanation of the sacrament of the Lord's Supper, is an argument that goes a great deal too far: for it would equally hold good for repealing that law, by which all officers, civil or military, are obliged to receive that sacrament within three months after their admittance; for a place of great profit and trust under the government is surely as great a temptation to a Jew born here, as a naturalization can be to a Jew born abroad. Yet if any Jew should by artifice get the sacrament administered to him, in order to intitle himself to some office or employment, I believe no man will say, that the guilt of such a profanation lay at the door of those who refused to consent to the repeal of that law. But, I believe we need not give ourselves any concern about this question; for whatever danger a clergyman may expose himself to by refusing to administer the sacrament, I am persuaded, no one would administer it to a reputed Jew, without a sufficient testimony of his having regularly embraced the Christian faith, not privately, but, according to custom, before a multitude of witnesses.

Having answered all the arguments which the hon. gentleman endeavoured to draw from religion, I shall now consider the advantages hoped for from this Bill: but must begin with some general observations in relation to the Jews; and in the first place I must observe, that it is a very great mistake to suppose, that the Jews ever did, or ever can set up trade in any country; for the origin of trade in all countries is manufacture; but none of the Jews, even of the poorest sort, are ever bred to be manufacturers or mechanics, or indeed to any laborious employment; therefore they can never be the beginners of trade in any country. It was not they that began the Dutch trade, after the establishment of that commonwealth, but it was the persecution and oppression of the Spanish government, which drove the manufacturers and mechanics from all the other provinces of the Netherlands: nor was it the expulsion of the Jews which ruined the trade of Spain and Portugal, but the emigration of the inhabitants; for such multitudes of their people went to America, that there was not enough left for carrying on any sort of manufacture sufficient for their home consumption. No instance can be given, Sir, of the Jews having been the beginners of trade in any country, but many to the contrary. In Poland there have been multitudes of Jews for many ages, yet no man will say that Poland is a trading country. In this country, though they were settled here from the time of the conquest to the 18th of Edward the 1st, near 230 years, yet they never set up any trade, but dealt chiefly in usury, which indeed was most excessive, for we have among our records some regulations prohibiting them to take above 2*d*.

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per pound per week. The truth is, in those countries where there is little or no trade, they deal mostly in usury, or in collecting the taxes: and where a trade has been already established, some indeed of the richer sort may engage in foreign commerce, but the poorer deal only as brokers, pedlars, or hawkers, as we may now see from daily experience; for but the other day I met no less than four of them together, going upon a pedling progress into the country.

But, Sir, though the Jews cannot be the beginners of trade in any country, yet after it is begun, they may contribute to its increase; for as they either cannot or will not purchase, or take lands to farm in any country, they have no way of employing their money but in trade or usury; and as they are dispersed over the whole world, and keep a correspondence with one another, they know where all sorts of manufactures may be sold to the best advantage; therefore by lending their money to the native manufacturers, they may enable them to extend their manufacture, and by their foreign correspondence they may increase the exportation. For this reason, in the infancy of the trade of any country, it is right to encourage the Jews to come and settle amongst them: as the manufacturers have not then money of their own sufficient for carrying their manufacture to any great extent, and as the native merchants have not a foreign correspondence settled, perhaps, in those countries where some of their manufactures may be sold to the best advantage. But in a country where trade and commerce have been fully and long established, where the manufacturers have money sufficient of their own, or of their friends, to carry their manufactures to the utmost extent, and where the native merchants have a correspondence settled in every foreign country where it is possible to carry on any commerce, and consequently must know where every sort of manufacture may be sold to the best advantage: in such a country, I say, it is madness, if not worse, to put Jews or any other foreigners upon an equal footing with natives, because it only enables the former to take the bread, or a part of the bread, out of the mouths of the latter, without increasing in the least the national trade or commerce; for no Jew, any more than a native, will export more of your manufacture than he can sell to advantage, and so much your own native merchants will always export, if there were not a Jew in the kingdom; nor does an English merchant ever desire a greater profit than will satisfy a Jew or any other foreign merchant; for in such a multitude of merchants as we now have of our own to all parts of the world where the trade is open, it is certain, that they will undersell one another till they bring the market down to what can be deemed nothing but a living profit.

Let us take, for example, Sir, the kingdom of Portugal: does any man think that we do not now export as many of our manufactures thither as can possibly find a vent, or that our Portugal merchants and their factors, who are so numerous, and so independent of one another, do not sell those goods as cheap as they can be sold? Suppose, then, that we export yearly thither to the value of a million sterling, and that this is the utmost that can be exported: if we should naturalize all the Jews in the world, they could not add to that exportation: they could only come in for a share of it; and suppose that share to be 200,000*l.* worth of goods yearly, is it not evident, that in this case one fifth of our English Portuguese merchants must give up the trade, or all of them together must trade for one fifth less than they used to do? This, therefore, could be of no advantage to our trade or manufacturers: it would only transfer the profit upon 200,000*l.* worth of goods yearly from our native English merchants to our naturalized Jews; and this I must look on as a loss to the nation, because I think we are as yet a Christian nation; the estate got by an Englishman we are sure will remain here: but a Jew, though naturalized, may be here to day and gone to-morrow: when he has got an estate here, he may go and live upon it in a climate which he thinks more agreeable to his constitution.

This example, Sir, may be applied to every country in the world as well as to that of Portugal; for there is no country where we have not houses and factories established; and therefore it is, I think, a demonstration, that the Bill before us, can be of no advantage to our trade or manufactures, but must be of disadvantage to the nation in every branch of our foreign trade. And now with regard to our domestic: the Jews, it is true, have as yet contented themselves with hawking and pedling: very few of them have become shop-keepers, because it would subject them to taxes and parish rates. But suppose they should begin to engage in this



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branch of business, could it be of any advantage to our trade or manufacturers? Have we not already as many English shop-keepers of all kinds as can be supported by the consumption? Does not the most petty shop-keeper know, that what maketh rich is a small profit and a quick return? Consequently, must not every one of them sell his goods as cheap as he can possibly afford? Therefore we cannot suppose that Jew shop-keepers would sell cheaper than our English now do, but they might perhaps cheat oftener: and if Jew shop-keepers should increase, the Christian must diminish in number; so that if in this way the Bill now before us should have any effect, it would only be a transferring of a share of the profit upon our home consumption, from our native Christians to our naturalized Jews.

But, Sir, both in our foreign and domestic trade the transferring of a part of the profits from the Christian to the Jew, is not the only bad consequence we have to fear from this Bill: sectaries of all kinds, especially the Jews, are more zealous and diligent in recommending one another, and in playing into the hands of one another, than those of the established Church. By this means they may in time render it impossible for any Christian to carry on any trade, either foreign or domestic, to advantage: Jews may become our only merchants and our only shop-keepers. They will probably leave the laborious part of all manufactures and mechanical trades to the poor Christian, but they will be the paramount masters, as the merchants and shop-keepers in every country must always be: and if our landed gentlemen should find it impossible to provide for their younger sons by making them merchants or shop-keepers, nor for their daughters by marrying them, with a small fortune, to a merchant or shop-keeper, we may judge what would soon be the fate of most of our land-holders: they must give such large fortunes to their younger children, or at least to most of them, as might be sufficient for their support, by which means a new incumbrance would by every generation be brought upon the estate, and that without any resource: at present a younger brother often gets by trade such a sum of money as saves the estate of his family; or the heir, by marrying the daughter of a rich merchant or shop-keeper, gets such a fortune as redeems his estate from all former incumbrances: but if Jews, who marry only among one another, were our only merchants and shop-keepers, both these resources would be cut off; which would every year bring so many of our land estates to market, that I doubt much if they would rise in their price, until the Jews had got possession of most of them.

Thus, Sir, the Bill, instead of being of advantage, may probably be fatal to our present land-holders; and whatever esteem some gentlemen here may have for the Jews, I doubt much if our English farmers would like to have Jews for their landlords, though they could hardly be treated worse than some of them are at present by their Christian landlords. From all which I must conclude, that there is no rank of men in the kingdom, to whom this Bill, if passed into a law, can be of any advantage, but that on the contrary, if it takes effect, it will be of immediate disadvantage to our merchants, and may at last be fatal to every rank of Christians in this kingdom. And as to the advantage it may be of to the state, by supplying our ministers with money in case of a war, or by enabling them to reduce the interest payable upon our public funds, in case of the continuance of peace, I must observe, that if the Jews cannot get an equal interest and security any where else, they will let us have their money without being naturalized; and if they can get a higher interest and equal security any where else, they will not let us have their money, even though we should naturalize the whole Hebrew nation at once. So that to compensate all the dangers and disadvantages we shall expose ourselves to by passing this Bill, we can expect no one advantage but that of having a few rich Jews come here to spend their income from our funds; which they now spend abroad; and even this I think very precarious; for when a man grows old, he does not like to leave the country in which he has been bred and perhaps born, which is the reason that I have seldom seen Bills of Naturalization applied for by rich foreigners who have got their fortunes abroad, but by foreigners who have long lived, and have got estates, or are in the way of getting estates, in this country.

But, Sir, though I think this good effect of the Bill very precarious, I am convinced, it will have a very extensive bad effect. We may, if we please, call it only a Bill for empowering the parliament to naturalize, but it will in effect be a general naturalization of the Jews. An old and rich Jew, who has given over trade,



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may not, perhaps, expose himself to the fatigue and danger of changing his country and climate; but all the rich Jews, who are still engaged in trade, and resolved to continue it, will come here to be naturalized; and where the rich come the poor must follow. We shall have crowds of them coming over every day, and as their children afterwards born will of course be natural-born subjects, if the doctrine be established, that all such Jews may purchase and hold land estates, I am afraid, that a great part of the land in this kingdom may soon fall into their hands, so that from henceforth the prophecy, at least with respect to them in this country, will be defeated; for whilst our constitution remains in its present form, those that are possessed of our land estates must necessarily have a share in our government: though they may not be members of parliament, nor ministers of state, yet they must have a great influence upon those that are, consequently, they can neither be called vagabonds, nor can it be said, that they have found no ease, nor rest for the sole of their foot in this country, or that they have here a trembling heart, or any sorrow of mind. But, Sir, whatever has happened, whatever may happen to some particular men of that nation, I am fully convinced, that there is a curse attends the nation in general, and will attend them until they acknowledge Christ to be the Messiah: to such of them as will do so, I shall be ready to grant every indulgence; but by indulging those that will not, I am afraid we shall bring our nation into the same contempt in which they are held by all nations under the sun; and I wish, that by bringing them here, we may not bring along with them the curse that has pursued them through all countries, and for so many ages.

Mr. *Nicholas Hardinge*:

Sir; I never was more surprized at any thing than I am at the opposition made to the Bill now before us, in this House, and at this time. I do not, indeed, wonder at the clamour raised against it without doors, because dealers of all kinds, either in our foreign or domestic trade, are jealous of rivals in their respective business, and willing to reduce rather than increase the number in every branch. But as it is certainly the interest of the public to increase the number of dealers in every branch of trade as much as possible, and as it is the duty of every gentleman who has the honour of a seat in this House, to consider the public interest, without regard to the private views of any set of men whatever, I cannot but be amazed, that a Bill so clearly calculated as this is for the public good, should meet with the least opposition in this House, especially at this time of day. If the same narrow way of thinking with regard to religion still prevailed, which was the bane of this island, from our first conversion to Christianity, down to the Revolution: if there were amongst us any set of men, who thought it a crime and an abomination, to hold a correspondence with, or to admit to breathe the same air, such as differed from us in any of our religious opinions, from such men I should, upon this occasion, have expected to have met with opposition. But ever since the Revolution, a generous and contrary spirit has been so much propagated, and now, I hope, so universally prevails, that I did not apprehend the least opposition to a Bill for admitting those to live amongst us, who, we are sure, will add to the wealth and increase the trade of our native country.

I say, live amongst us, Sir; for this is the only privilege they are to acquire by the Bill now under consideration; and even this they are not to acquire, unless it shall please some future parliament to grant it. They are neither to have, nor will it be possible for them, or any of their posterity, to acquire the least share in our government, without first declaring themselves Christians. As to any place, or office of trust or profit under the government, every one knows, that no man can hold any such, unless he be of the religion established by law; and even as to voting for, or being chosen, a member of parliament, we all know, that the oaths may be tendered to, and when tendered, must be taken by every man that appears either as a voter or candidate at any election; and that some of these oaths are such, as can be taken by no man who is not a Christian. What is it, then, they are to acquire by this Bill, should it be passed into a law? Nothing but the power of obtaining from parliament, at a very great expence, a privilege to live and spend their money here, instead of spending it abroad. This is really all they are to acquire by this Bill, or by any thing in consequence of it, unless they have a mind to contribute to the increase of our trade, by engaging in it, or to the raising the value of our land estates, by making a purchase; and how either of

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these can be injurious to the national interest, I cannot comprehend.

With regard to trade, Sir, if our manufactures and native commodities of all kinds were sold as cheap as possible in all foreign markets, and as great quantities of them exported as can possibly find a vent at those markets, I shall grant, that the naturalizing of foreign merchants, would only be a transferring of part of the profits of our trade from natives to foreigners; but these are facts which it is impossible to ascertain: new men will probably make new experiments, and by new experiments, new channels of trade may be discovered, through which new and additional quantities of our manufactures may flow to a foreign market: no people can be supposed more capable, or more ready than the Jews, to make these new experiments, because of their great propensity to trade, and because of the curse that attends them. By being dispersed through all nations, and by being the chief traders in every nation where they sojourn, they know what sort of fabric in every kind of manufacture is best suited to the taste of the people of every country, and they may give directions to our manufacturers to work up several new sorts of fabrics hitherto unknown in this country. We have been told in this House, and the fact is certainly true, that a very eminent Jew merchant now living in London, directed a new sort of camblets to be made, but a few years ago, of which great quantities have since been yearly exported to Spain; and though we have excluded them from being our factors in Turkey, yet the Jew merchants that are, or may be settled here, in consequence of this Bill, may, by means of their correspondence with those of their nation in Turkey, give such directions to our manufacturers here, for the inventing and working up of new sorts of fabrics, as may revive and greatly increase our Turkey trade; for there is no country in the world where the master manufacturers are more ingenious and expert than ours; and notwithstanding the multitude of our taxes, and the effect they may have in raising the wages of workmen, yet as there are taxes in every country as well as here, and as bread, the staff of life, is cheaper, and famines or scarcities less frequent in this country than in any other, I am of opinion, that by proper care, and some new regulations with respect to our poor, the price of wages here may be reduced, at least as low as they can be in any country where there is an equal plenty of gold and silver in circulation.

Therefore, Sir, as it is impossible to know whether our manufactures are sold as cheap as possible in every foreign country, or whether as large quantities of them are exported as can possibly find any where a vent, the wisest method we can take, is to make the naturalization of foreign merchants as general and as easy as we can. This, in my opinion, is the only method we can take to come at any certainty as to these two questions; for if they are both to be answered in the affirmative, I think it is highly probable that no foreign merchant would desire to settle, much less to be naturalized here; and as numbers of them are daily desiring it, I think it almost an incontestable proof, that both these questions are to be answered in the negative; consequently, I must think it as much a demonstration as the nature of the case can admit of, that the exportation of our manufactures and our foreign trade may be very much increased by the naturalization of such Jew merchants as may desire to settle in this country. And as to our domestic or shopkeeping trade, I very much doubt, whether our shopkeepers and warehousekeepers sell at as low a price as they can possibly afford; because I have been told, that you may buy most sorts of English manufactures as cheap at the shops in Lisbon or Amsterdam, as at the shops in London. If this fact be true, which, indeed, I cannot assert upon my own knowledge, it is certain, that our shopkeepers in London do not sell at so low a price as they can possibly afford; for our manufactures must go to the shops at Lisbon and Amsterdam loaded with the additional charge of freight, insurance, commission, and several other charges; and I must observe, that the reducing the price of our home consumption, would contribute to the increase of our exportation, as it would enable our people to live cheaper, and to work for less wages than they do at present, which of course would lower the price of our manufactures at all foreign markets. Consequently, if naturalized foreigners should set up shopkeeping, and sell at a cheaper rate than our shopkeepers now do, it would be an ease to all the rest of our people, and a great advantage to our foreign trade. And what makes me suspect, that neither our merchants nor our shopkeepers content themselves with such a small profit as they think the Jews would be satisfied with, is the clamour that has

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been raised without doors against this Bill; but this very clamour, instead of being a reason against, should be a prevailing argument with us, for passing this Bill; for the selfish foundation of this clamour will plainly appear, when the pretences by which it has been raised are all found to be false and counterfeit.

Now, Sir, with regard to land estates, some gentlemen, I find, make it a question, whether a person professing the Jewish religion, though born in this kingdom, can purchase and hold an estate in lands, tenements, or hereditaments; but that they always could, I think there is nothing more plain from many of our ancient records. Even long before the Conquest it seems to me, that they could purchase and hold land estates: for there is a charter from Witglaff, king of Mercia, above 200 years before the Conquest, by which he confirms to the monastery of Croyland all the land and possessions granted to them by the kings or nobles of Mercia, or by other faithful Christians, or Jews; but whatever was the case before the Conquest, it is certain that, ever since that time, or at least ever since the reign of Henry 2, they could purchase and hold land estates, as appears from many records still extant; for of the four fines levied, which is all we have extant of that reign, there is one by which it appears, that one Jornetus, a Jew of Norwich, had purchased of William de Curson, a messuage in that city, to the said Jornetus and his heirs, for five marks of silver, and a yearly rent of five shillings, in lieu of all services; and in the reigns of Richard 1, John, and Henry 3, we have several records still extant which shew, that the Jews could purchase and hold manors or lordships as well as houses or tenements: therefore, as there has been no statute made since that time for rendering the Jews incapable to purchase and hold land estates, we must conclude, that Jews who are not aliens, that is to say, such as are born within the British dominions, or naturalized, may still purchase and hold land estates, as well as any other of his majesty's natural born subjects. Consequently, the Bill now before us can no way contribute towards giving any Jew born abroad a greater right than his son would have if born here, nor any greater right than he himself may acquire by living seven years in our plantations, or by engaging for three years here at home in several sorts of manufactures; and I have already shewn, that no man professing the Jewish religion can have any share in our government, nor so much as a vote for any member of parliament, let him have never such a large estate in land; so that the apprehension of the Jews becoming our masters, instead of being our fellow subjects, must be altogether chimerical. They can interfere with no man in the pursuits of ambition, nor can they be hurtful to any set of men in the kingdom but usurers, and those who exact an extravagant profit upon what they export, import, or retail. By being hurtful to such they will be beneficial to the public and to the people in general; and if any of the Jews, who may be naturalized in consequence of this Bill, should become purchasers of land estates, it will be an advantage to every landholder in the kingdom, by raising the value of the property he is possessed of.

But say gentlemen, Sir, it will be injurious to our character as Christians, and bring dishonour upon the nation in all Christian countries, thus to invite the Jews to come and settle amongst us, and to incorporate them with ourselves. Gentlemen who make this objection have not surely considered the histories of Europe; for in every part thereof, except Spain and Portugal, the Jews are treated as natives, and enjoy the same privileges which it is proposed they shall have here. In every part of Italy, not excepting the territories of the Pope himself, they are treated as natives, and indulged with synagogues on paying a small tax for each. In Rome alone it is reckoned the Jews have nine synagogues, and in the other parts of the ecclesiastical state the number of their synagogues amounts to no less than 91, making in the whole 100. In France, so long ago as in the reign of their Henry 2, about 200 years ago, an edict or law was made, by which it was enacted, that the Jews should be from thenceforth deemed the king's subjects, and should be capable to purchase, inherit, and enjoy land estates, as natural born Frenchmen; which law was renewed by Henry 3, of France, and by Lewis 14, and has been twice revived and confirmed by the present Lewis 15, and it is remarkable, that by this law all Jews, whether rich or poor, are by this law naturalized in France, whereas by the Bill now before us, rich Jews only are to be rendered capable of being naturalized, and that only in case the parliament should agree to it, not generally, but particularly with respect to

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every single Jew that shall hereafter petition to be naturalized. And even in Spain and Portugal, it is only by the superstitious vulgar, animated by their priests, that the Jews are held in such contempt; for in both these kingdoms the men of sense esteem those that are privately known to be Jews, and are as ready to deal with them as with any set of men whatever; therefore the small favour intended to be granted by this Bill to the Jews, can bring no dishonour upon this nation in any part of the world, nor any way injure our character with those whose esteem is worth preserving.

As to the making of this Bill general, Sir, so as to comprehend Mahometans and Pagans of all kinds as well as Jews, I should not be against it, if there were any occasion for it, because it is a maxim with me, and must, I think, be a maxim with every one who judges impartially, and without any childish or superstitious prejudices, that it is for the public interest not only to enable but invite the rich men of all nations and religions to settle themselves and families in this country; and though the Romans were shy in granting the freedom of their city to distant cities or countries, or to such as were to remain in them, yet they always granted it readily to such as came to live in the city of Rome itself; witness their so frequently forming the people lately settled in the city into new tribes, and particularly their having in the very infancy of their republic granted not only the freedom of the city, but the privilege of being a patrician to Appius Claudius, whose followers had all likewise the freedom of the city, and were formed into a new tribe, called by his name Claudia Tribus. But, Sir, as we have not at present the least expectation that any rich Mahometan or Pagan will apply for being naturalized, we have no occasion for making this Bill general: and besides, we have several particular reasons for being ready to grant naturalization to the Jews, which cannot be pleaded in favour of any other set of people whatever; for in the first place, they are more likely to improve and extend our foreign trade than any other set of people whatever. In the next, they support their own poor in all countries where they are, so that we can be under no apprehension that any of them will become burthensome to any parish. And in the third, as they have no country they can properly call their own, nor any where they can live with so much security, we are in no danger that after they have gained an opulent fortune by trade in this country, they will retire to spend the income of it in any other.

These, Sir, are strong inducements for our being more inclined to grant the favour of naturalization to the Jews, than to any other denomination of people; and to these I must add, that the Jews have great merit to plead with this nation, and particularly with the present happy establishment of our government. They have very much contributed not only to the increase of our trade, but also to the establishment and preservation of our public credit, to which we in a great measure owe the preservation both of our religion and liberties; and in 1745, when our present happy establishment was in the most imminent danger, the Jews in general shewed themselves zealous for the support of our government, and one of them in particular, a gentleman whom I have already had occasion to mention, on account of a very great addition that has been made to our exports to Spain by his means; that gentleman, I say, upon hearing in 1745, that the government was in distress for want of a sufficient number of small ships of war to guard our coasts, in order to prevent the rebels receiving any succour from France, came to the lords commissioners of the Admiralty, and told them, that he had then no less than five stout privateers in the river, all ready to put to sea, every one of which should be at the government's disposal; and further, that he was so far from expecting any recompence or reward for this testimony of his loyalty, or for the service they might be of, that as long as the government had occasion for them, he would maintain them all at his own expence.

Sir, if these are not such inducements as should incline us to naturalize such Jews as may hereafter desire it, rather than any other foreigners whatever, I am sure, they are such as should prevail with us at least to put it in the power of the parliament to naturalize them, which is all that is intended by this Bill, and therefore I shall most heartily give my vote for its being committed.

Mr. *Nicholas Fazakerley*:

Sir; I rise up chiefly to rectify a mistake which an hon. gentleman fell into, with regard to the Papists in Ireland. In order to make us believe, that our giving to the Jews a privilege to purchase land

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estates in this country, may be a means to convert them to Christianity, he told us, that most of the Papists in Ireland had been converted by means of their being possessed of land estates; but I must tell him, that it was not their possession of land estates that made them turn Protestant, but the necessity they were laid under by law to turn Protestant, in order to preserve that possession; for before that law was made, they had continued in possession of those land estates for several generations after the Reformation, without having ever had the least inclination to turn Protestant, but on the contrary engaged in several plots and conspiracies for compelling all the Protestants in that kingdom to turn Papist, and to murder or banish all such as would not comply; and as the Jews are at least as obstinate as the Papists, I make no doubt of their forming some such conspiracy against the Christians of all denominations, if they should ever become so numerous and powerful in this country, as to entertain any hopes of succeeding in such a project; for we may judge of their resentment and cruelty from the story of Esther, which we have from incontestable authority, and which informs us, that upon their getting the power into their hands, they put to death in two days near 76,000 of those they were pleased to call their enemies, without either judge or jury.

Now I am up, Sir, I must declare that, when I consider the several æras that have been remarkably favourable to the Jews in this country, I am so far from being surprised at the opposition made to this Bill, that I am amazed it should have been thought of by any gentleman who pretends to be a friend to our present establishment, or to have a regard for the character of the sovereign now upon our throne. That we had some Jews in this country before the Conquest is probable, but that we had not many is certain, because all our historians take notice of that being the æra of their first introduction; and such as we had were in a most abject condition; for by a law of Edward the Confessor it is declared, that the Jews, and all they have, belong to the king, 'Judæi, 'et omnia sua, regis sunt.' Therefore it is plain, that if any Jew then purchased a land estate, he could hold it no longer than the king pleased to allow him; and the grant to the monastery of Croyland, which an hon. gentleman was pleased to mention, must certainly relate to converted Jews, for none but a converted Jew would grant his lands to a Christian monastery. William the Conqueror was then the first of our monarchs who was reasonably favourable to the Jews; and who was William the Conqueror? Not only an usurper, but one who treated the natives as a conquered people, and invited foreigners of all sorts, the Jews among the rest, to come and settle in this then unhappy country. The next of our monarchs that was remarkably favourable to the Jews was king John: who was king John? Not only an usurper, but a murderer and a tyrant; for after usurping the crown from his nephew Geoffrey of Bretagne, he murdered that young prince, and by means of an army of foreigners which was chiefly supported by the Jews, he tyrannized so much over his subjects, that they chose to submit to France rather than continue under his tyranny. During the long and weak reign of Henry 3, the Jews were allowed to continue in this country, and to oppress the natives with their usury and extortion, because the court could as often as it had occasion extort money from them for supporting its extravagancies; but that great and wise king, Edward 1, who, I wish I could not say, was the only king we ever had, before his present majesty, that perfectly understood, and steadily pursued the true interest of England, soon after the beginning of his reign, that is, in the third year of it, consented to a law, by which it was ordained and established, that no Jew should in any manner practise usury. However, it is probable they found means to evade this law; and therefore the king, at the repeated suit of his people, in the 18th year of his reign, banished all the Jews out of the kingdom by proclamation on pain of being hanged, if any were found in the kingdom after the day prefixed. From this time, which was in the year 1290, they could never obtain leave to settle here again, till an end was put both to our constitution and religion, by Oliver Cromwell and his associates, when the settling of many of them here, and their privately setting up a synagogue, was connived at, for even Cromwell was not hardy enough to pass any public act in their favour: and though most of them, out of fear, retired to Holland upon the Restoration, yet upon finding how things were likely to go, several of them returned, some of whom, for a sum of money I suppose, obtained letters of denization from king Charles 2, with a *non obstante* clause

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for freeing them from the payment of the aliens duty; but we had no great inundation of them until the pernicious trade of stockjobbing was set up soon after the Revolution, when Jews, and all other foreigners, were invited by act of parliament to practise that trade of usury upon the state, which by Edward the 1st's law they had been forbid to practise upon the subject.

From this short history of the settlement of the Jews in this kingdom, gentlemen may see, that every æra which was in this country favourable for the Jews, was an unfortunate æra for the nation; for though the Revolution was happy in freeing us from the bigotry of king James, and the tyranny of the Papists, yet the custom soon after introduced of raising funds, and mortgaging those funds at a high interest, which has been so favourable for the Jews, I must look on as a most unfortunate custom for the nation. Ever since that custom was introduced, we have been like a young extravagant heir, who proportions his expence not to his income, but to his credit, without plaguing himself with the troublesome thought how the money he borrows is to be repaid, or what difficulties he may afterwards bring himself under; and now we are like a man, who by high living has brought himself into an ill habit of body, instead of resorting to temperance and sobriety, he applies to every quack remedy he can think of, and continues his luxurious way of life, until his body is become so extenuated, that it can bear no regular cure. Instead of applying to the quack prescriptions of naturalizing Jews and foreign Protestants, we should lessen our yearly public expence, which would enable us to abolish some of those taxes that enhance the price of our manufactures at all markets both foreign and domestic. By reducing our army to what it was at the end of queen Anne's reign, and our civil list expence to what it was during the whole of her reign, we might save at least 4 or 500,000*l.* annually, which would enable us to abolish the duties upon salt, upon leather, and upon soap and candles; and this, besides being a relief to all our manufactures, would particularly encourage our fisheries and our manufactures of leather, both of which are considerable articles in our exports to foreign markets.

Thus, Sir, by lessening our annual expence, and abolishing some of our taxes, we may revive our trade by means of our own people, without the assistance of naturalized Jews, or any other foreigners; but as much as I am against this naturalizing Bill, I do not think it of such pernicious consequence as the doctrine upon which it is founded. That Jews born here are in every respect to be deemed natural born subjects, and may consequently purchase and hold what land estates they please, is to me a doctrine that seems quite inconsistent with the whole tenor of our laws, and with the very essence of our constitution. That a Jew born either here or beyond sea, may purchase a land estate, I shall readily agree, but that he can hold it any longer than the king pleases, I will positively say, neither is nor ever was, nor ever can be the law of this kingdom, until it be made so by act of parliament; for that is the only method by which the common law can be altered; and that a land estate purchased by a Jew belongs to, and may be seized by the king, is now, and has always been the common law of this kingdom, ever since Christianity was established; for even that law of Edward the Confessor was but declaratory of the common law, as appears by the very words of it. And notwithstanding the great favours granted by William the Conqueror and his successors to the Jews, they took care not to alter this part of the common law, but on the contrary, enforced it by often seizing upon the lands mortgaged to the Jews: for in those days the purchases made by the Jews, and even by Christians, were generally by way of mortgage: and sometimes the king would grant a release to the mortgager, without the concurrence or consent of the Jew mortgagee. Can we suppose, that from the Conquest, to the 18th of Edward 1, a period of 200 years, there were no Jews born in England? Yet in all that time did we ever hear of a distinction between Jews born within or without the king's dominions? They were both equally the king's property: they had equally a right to purchase and to hold, that is to say, till it pleased the king to take it from them. Did we ever hear of such a distinction before the present age, so fertile in novelties of every kind? It is a distinction expressly contrary to the common law of this kingdom, by which every Jew, whether born here or abroad, and all that belongs to him, is the king's property, except what he may have in our public funds, which seems to be secured by those laws which enabled foreigners, without distinction, as

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well as natives, to become contributors: therefore, if this Bill should pass, I should advise even our rich Jews born here to get themselves naturalized; because an act of naturalization is in so far an alteration of the common law.

But, Sir, if this Bill should pass into a law, I hope we shall revive that law passed in the 54th of Henry 3, which enacts, amongst other things, that no Jew shall have a freehold in any lands, tenements, or hereditaments, or rents, issuing from them; and even as to leases of lands, I think we should revive the law of the 3rd of Edward 1, which restrains them to a term not exceeding ten years. These laws, I say, we should revive, or make a new law upon this plan; for I hope it will be allowed, that Christianity is as yet a part of our establishment, and therefore we should be as careful to prevent the enemies of Christianity, as we have been to prevent the enemies of our present royal family, from getting possession of any great share of our lands: for by our constitution landholders must always have a share in our government, even though they should not themselves be capable of voting for, or being chosen members of parliament, because they will always have an influence upon those that are; but I really do not see what can hinder Jew landholders from voting for, or being chosen members of parliament. I shall not say, that they will look upon any of our oaths, especially the oath of abjuration, to be an oath, or any sort of religious ceremony: they will look upon them as forms of words only, and for that reason will repeat them without the least scruple. Therefore, Sir, before we pass this Bill, I think we should consult some of the Jewish rabbis, as to the proper form of oaths, and the proper method of administering an oath among them, and add proper clauses to the Bill according to the instructions we shall receive from these rabbis, that such Jews as come here to be sworn, may be sworn in their own manner; for which purpose an Hebrew Pentateuch or an Hebrew Talmud, should be provided, and a Jew clerk appointed in each House; and in future times, perhaps, it may become necessary for our Speaker to give notice, 'A Christian member to be sworn,' or, 'A Jew member to be sworn,' according to the religion of the member then introduced.

Although this may look like raillery, Sir, I am really serious; for with regard to all oaths, I think they should be drawn up in such terms, and administered in such a manner, as is most likely to produce reverence and respect in the person who is to be sworn; therefore the seeming raillery of what I say proceeds from the ridiculousness of what is proposed by *this* Bill, and not from any jocular *humour I* may happen to be in at present; for *I* think our constitution and liberties may be exposed to the utmost danger, by the prevailing humour of naturalizing foreigners, especially Jews; because we may from experience be certain, that they will always be obnoxious to the people, therefore they must be for depriving the people of all power, and lodging the whole power of the government in the hands of the crown. They may hereafter do as they did in king John's time: they may furnish some future ambitious monarch with money for supporting an army of foreigners, in order to oppress his subjects; and from some late precedents, it now seems to be an established doctrine, that our king may, without asking the consent of parliament, call in foreign troops, whenever he thinks himself in danger. If the parliament should, from a just suspicion, refuse to continue the Mutiny Bill, and our own army *should* be honest enough to disband, would not an ambitious king in such circumstances think himself in danger? Would he not call in immediately an army of foreigners? Would not the Jews gladly furnish him with money for this purpose? And if the Jews should thus get an Ahasuerus upon our throne, and an army of foreign mercenaries at his disposal, would not the people of this kingdom have great reason to fear being treated by them, as the Medes and Persians were by their ancestors?

For what, Sir, are we to expose ourselves to this danger? The hon. gentleman says, for the sake of increasing our trade, and raising the price of our lands: as to our lands, Sir, I had rather they should sell for ten years purchase, than that most of them should come into the possession of Jews; and I believe most of the landholders in England will join with me in opinion; and as to our trade, the increase of it must be allowed to be very precarious. The hon. gentleman himself admitted, that if our manufactures are now sold abroad as cheap as possible, and as many of them exported as can find a vent, our naturalizing the Jews will only be a transferring of part of the profits



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from Christian Englishmen, to English Jews. But these, he says, are questions which cannot be certainly answered; and the Jews desiring to be naturalized, is, he says, an argument for their being answered in the negative. Sir, a branch of trade being overstocked is, we find, no bar to new people desiring to get into it; because every one expects, by his superior skill and industry, to ingross a great part of it to himself; and in every branch of trade that is overstocked, we are very sure, that every dealer must sell as cheap as he can, and will sell as great a quantity as he can: now as every branch of our trade is overstocked, it is, I think, a demonstration, that in every branch of our foreign trade our English merchants now sell as cheap and as much as they can; consequently, our naturalizing the Jews can no way increase our trade. But, Sir, the Jews have a particular reason for endeavouring to get into every branch of our trade. Their brethren are almost the sole brokers between merchant and merchant in all countries; and if they can, as Englishmen, set up houses in all foreign countries, they hope, in a short time, to ingross the whole of the trade in each to themselves alone, not by selling cheaper than our merchants now do, but by their superior interest amongst the brokers. If they should succeed in this, do we think, that they would sell cheaper, or export more of our manufactures than our merchants now do? We may judge of their conscience in this from what they did here after the Conquest, when they had a monopoly of lending money at interest; for no Christian could then exact interest for any money he lent; and we find from our records, that they then exacted above 50*l.* per cent. interest. It would be the same should they get a monopoly of any branch of our foreign trade: they would exact a higher profit than our merchants now do, and consequently could not sell so great a quantity.

Therefore, Sir, by passing this Bill into a law, we may ruin our foreign trade in most parts of the world, but can expect to increase it no where; and as to the shop-keeping trade, I very much doubt the fact which the hon. gentleman was pleased to mention; but if there be any truth in it, it must proceed from its not being the custom in those cities for shop-keepers to give so much, or such long credit, as our shop-keepers usually do; for the difference of a year or two in the credit must make a great difference in the price of the goods sold upon trust; and we know, that our shop-keepers are sometimes seven years before they can get payment, even from those who are able to pay, and even then they must, perhaps, pay poundage to some French valet, or French chamber-maid; for it seems to be thought necessary in this country, for a man of quality to have a levee, and if he can get no others to attend it, he makes his tradesmen pay him that compliment year after year, in order to solicit the payment of what has been long due to them.

But in order to induce us to grant what is contended for to the Jews, we are told, that they enjoy the same privileges in most countries of Europe, especially in Italy and France; and that even in Spain and Portugal, from whence they have been long expelled, such of them as are privately there, are in high esteem with people of sense and knowledge. As to Italy, Sir, I do not at all wonder at their having a great number of synagogues there, especially in the Pope's territories; for even the devil himself is indulged with having as many chapels there as he pleases, on paying a small tax: I mean, the licensed whores and brothels, which, I am told, are every where to be met with in that country. As to France we know, that their edicts are very uncertain: sometimes an edict issues for treating the Jews as natural born subjects, and soon after, perhaps, a new edict issues for banishing them all out of the kingdom; therefore, I think it very unfair to quote those edicts in their favour, without mentioning those against them; but if they ever had the privilege of purchasing land estates in France, it is certain they have been wise enough never to make use of it, for I never heard of a Jew that was a French marquis, which some of them must have been, had they been land-holders, as most of the estates there are erected into titles of noblesse. And as to Spain and Portugal, it is allowed, that there are some gentlemen of the Jewish nation, who deserve the esteem of all men of common sense; but it is certain, that the nation in general is despised there and every where else, and but too much deserve it, because they are too ready to sacrifice every thing to a little immediate advantage: they were banished out of Spain and Portugal for underhand assisting the Moors; in this country, in the reign of Henry 2, notwithstanding the protection he gave them, it was found, that for profit they furnished the rebels in Ireland



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with large sums of money; and but very lately, we know, that they were banished out of Bohemia, for furnishing the French army, whilst in that country, with all sorts of provisions.

But whatever privileges the Jews may be now indulged with in absolute governments, where the people have no share in the legislature, it can be deemed no precedent for our indulging them with the same in this country, where every freeholder, and indeed every freeman of any city or borough, has a share in our legislature; and as to the inducements we may have to favour the Jews rather than any other unchristian people, they will appear from what I have said to be of no weight. The Jews, as I have shewn, are more likely than any other people to ingross and ruin our trade; and as to their maintaining their own poor, they have hitherto been under a necessity to do so, because it was never thought that a Jew could obtain a settlement in any Christian parish; but if Jews born here are to be deemed natural born subjects to all intents and purposes, they may obtain such a settlement, and consequently, if reduced to poverty and want, must be maintained by the parish where they had their last settlement. As to their having no country of their own to retire to, if they have the same privileges in other countries, especially France and Italy, that are intended for them here, why may they not retire with their fortunes to those countries? They will certainly do so, as the climate is more agreeable to them, and whilst they no way meddle with the government they may live as securely: at least, many of them will do so; unless they should at last get the government of this country into their own hands, and if they ever should, God have mercy upon such of the natives as shall continue Christian; for I am sure our rulers the Jews would have none.

None of these therefore, Sir, can be any inducement for our agreeing to what is now proposed; and as to the merit of the Jews by their having been instrumental in increasing our trade and establishing our public credit, I wish the hon. gentleman had pointed out any one branch of trade that has been increased by their means: for my part, I know of no branch, to the increase of which the Jews, as a people, could any way contribute, but our trade to Turkey, and that has been upon the decline ever since they came amongst us. And as to our public credit, I doubt much if it be a national advantage, because it has encouraged and enabled our ministers to engage us in needless wars upon the continent, or to continue those wars longer than the interest of this nation required. But supposing it to be an advantage, I do not think a lender can plead great merit from lending his money at as high an interest as he can get any where else upon equal security; and we all know, that the Jews have been as ready as any other set of people to take advantage of the distresses of our government, for raising the interest and premium upon what money they agreed to lend.

Thus, I hope, I have shewn, Sir, that we can have no inducement for agreeing to this Bill from any advantages we have reaped in time past, or from any we can expect to reap in time to come; but on the contrary, that it will be, if passed into a law, of the most dangerous consequence to our religion, liberties, and trade; therefore instead of committing, I think, it ought to be rejected with disdain.

Mr. *Pelham*:

Sir; as I do not pretend to understand the law, I shall not contend with the hon. and learned gentleman who spoke last, about what is common law, or how that law is to be altered; but in the vulgar acceptation of the word, I have always understood common law to be common custom, and I cannot see why an old custom may not be altered by a new one. If this be so, whatever was the custom under our arbitrary monarchs for some reigns after the Conquest, it has been altered by a late contrary custom; for the Jews have been deemed for this last century as much under the protection of the law, as any Christian in the same circumstances. This, however, is a point which I shall not insist on: on the contrary, I shall suppose the common law to be as the learned gentleman has stated it; and upon that supposition I must be of opinion, that it is absolutely necessary for us not only to pass the Bill under consideration, but to bring in and pass a Bill for altering what is said to be common law, and for securing such Jews as are willing to live amongst us, in the possession of every part of their estate as well as that which they have in our public funds; for if the Jews may still be treated by the crown as they were in the reign of king John, and for some time both before and after his reign, even that which they have

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in our public funds could not be safe, if they resided in any part of our king's dominions, because he could demand what sum he pleased from any one of them, under pain of being subjected to some sort of torture until the sum was paid. What could an unfortunate Jew do in such a case? If he could not otherwise raise the sum demanded of him, he must sell out what he has in our public funds in order to raise it. In such circumstances can we suppose, that any rich Jew would reside within the British dominions? They might, perhaps, possess themselves of a great part of our public funds, but none of them would live here. They would all reside in Holland, France, or Italy, or in some place where they could have personal security; and thus we should have, perhaps, a million or two sent out of the country yearly, for paying the interest or dividends to such of the proprietors of our public funds, as were forced for their safety to live in foreign countries, and who would otherwise gladly come to live and spend their yearly income amongst us.

This would certainly be the consequence, Sir, were the learned gentleman's doctrine to be established, and in my opinion, even the broaching of it will so terrify many of the rich Jews we have now amongst us, as to oblige them to retire beyond sea as soon as possible, unless by passing this Bill we shew, that we are resolved to support and establish that doctrine or custom which has prevailed for this last hundred years in their favour. According to this custom, a Jew born in the king's dominions is, in every respect, as much his natural born subject as any Christian; and as this custom has obtained for this last hundred years, it is a length of time, which in every other case would establish a right; whereas, if the learned gentleman's doctrine should prevail, it might be contended, that the children of a Jew, who had resided seven years in the plantations, could not be deemed natural born subjects, though all born in our plantations, unless they declared themselves Christians, because the act does not say, that such persons 'and their posterity' shall be deemed his majesty's natural born subjects of this kingdom, notwithstanding any law or custom to the contrary. If, then, by the law and the custom as it now stands, a Jew born in his majesty's dominions is to be deemed a natural born subject of this kingdom, what mighty favour are we to grant the Jews by the Bill now before us? Only that the father may, by an act of naturalization, to be passed by some future parliament, and which the parliament may refuse if it pleases, enjoy those privileges, which his children would of course be entitled to enjoy, if born in the king's dominions, and which even the father might intitle himself to, by residing seven years in our plantations, or by engaging in several sorts of manufactures here at home. Is this a favour which can be attended with any dangerous consequences? Is it not a favour which we ought to grant, as it may, and in my opinion certainly will, induce several rich foreign Jews to come and reside in this country, which must necessarily be attended with an increase not only of our trade and manufactures but also of our public revenue.

As to what has been said, Sir, about Christianity being a part of our establishment, and that we ought not to allow the professed enemies of our ecclesiastical establishment to come and live amongst us, no more than we would allow the professed enemies of our civil establishment to come and live amongst us, it is an argument that goes a great deal too far: not only Christianity, but Christianity as professed and practised by the church of England, is a part of our establishment: will any gentleman say, that we ought not to allow any person to live amongst us, that will not in every punctilio conform to the profession and practice of the church of England? Surely, Sir, I am not to look upon every man as my enemy who differs from me in opinion upon any point of religion. This would be a most unchristian way of thinking; therefore I must think, that the Jews are in much the same case with the other dissenters from the church of England: we ought not to look on them as enemies to our ecclesiastical establishment, but as men whose conscience will not allow them to conform to it; therefore we may, in charity we ought to, indulge them so far as not to endanger thereby our ecclesiastical establishment; and from them we have less danger to fear than from any other sort of dissenters, because they never attempt to make converts, and because it would be more difficult for them to succeed in any such attempt. Nay, we know, that by the strict tenets of their religion, every man is excluded from it who is not of the seed of Israel; and as they cannot intermarry with a strange woman,

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we need not fear their having success in converting our women.

From the Jews, therefore, we have nothing to fear with respect to our ecclesiastical establishment, and as to our civil establishment, they are by the laws now in being sufficiently excluded from ever having any share in it; for unless they become Christian, they cannot be so much as excisemen or custom-house officers. Consequently, Sir, as they can never have any share in the government of this country, our indulging them so far as to allow them to live amongst us, and to enjoy the protection of our laws as to their persons and properties, can in no way interfere with any prophecy relating to them, nor with the curse pronounced against them, which plainly relates to their being established as a people in a country which they could call their own, by having the government of it in their own hands; and this, I think, it is plain they can never reasonably expect until they have acknowledged Christ to be the Messiah, and have embraced his religion. If the indulgence proposed to be allowed them in this country could contribute towards this desirable end, as I think it will, I hope every gentleman will admit, that it is a strong argument in favour of the Bill now under our consideration.

As to our foreign commerce, Sir, and the export of our manufactures, the very argument that has been made use of against the Jews is, in my opinion, a strong one in their favour. It has been said, that by means of their interest among the Jew-brokers in other countries, they may ingross the whole trade to themselves, and exclude all other English merchants from having any share in it; for if those Jew-brokers have so much influence among the natives where they reside, as to prevail with them to buy from one merchant or one house rather than another, surely they may prevail with them to buy the manufactures of one country rather than those of any other; consequently, they will prevail with them to buy the manufactures sent from hence by their brethren, rather than the manufactures of any other country whatever; and as we have now foreign rivals in all sorts of manufactures, this will always prevent its being in the power of our Jew merchants to exact too high a profit upon such of our manufactures as they send to foreign markets, even supposing they should ingross to themselves alone the exportation of all our manufactures. Therefore, Sir, if there be any truth in *this* fact, the argument to be drawn from it is, that our having a great number of Jew merchants settled amongst us would increase our commerce and the export of our manufactures; and though I do not admit that the Jews are the only brokers, or that they have such weight with the retailers and consumers in any country as is contended for, yet I am of opinion, that it would be of great service to us, to have the Jew brokers in all countries engaged both in interest and inclination to recommend our manufactures. This, I think, cannot be disputed, and as little can it be disputed, that our passing this Bill will contribute towards our obtaining this desirable end, so far as relates to the Jew-brokers in all foreign countries.

But supposing, Sir, that our having Jew merchants settled amongst us could in no way contribute towards increasing our foreign commerce or the export of our manufactures, yet it is certain, that our having rich Jews come to settle here with their families will contribute towards increasing our home consumption of every sort, and, consequently, will encrease both our home manufactures and our public revenue. Suppose a Jew worth 100,000*l.* should, upon passing this Bill, come here to settle with his family, and that he spent his whole income, or 3,000*l.* yearly; can we suppose that less than 300*l.* of this annual expence would be laid out in British manufactures for the consumption of himself and family? For, I believe, the Jews are as little guilty of wearing foreign manufactures as any set of people whatever. Would not this be an increase of our home manufactures to the amount of 300*l.* yearly? Then if we suppose that of every 20*s.* spent by a man of easy fortune, 10*s.* go towards the payment of taxes, would not this be an addition of 1,500*l.* a year to the gross produce of our public revenue? And if by our passing this Bill, 40 or 50 such Jews should be induced to come and settle with their families in this kingdom, it is easy to compute what an increase it would make both to our manufactures and the produce of our public revenue. This advantage is so certain, so demonstrable, that I am surprised to hear the Bill opposed by any gentleman who has ever complained of the decay of our trade, or of the insupportable burden of our debts and taxes; and I am the more surprised, when I consider the chimerical apprehensions upon which this opposition is founded: as if by naturalizing a few Jews our constitu-

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tion was to be unhinged, our liberties sacrificed, and the Christian religion extirpated. I should be extremely sorry, if I thought that any gentleman could be serious when he endeavours to possess us with such apprehensions, because I should from thence conclude, that both our religion and our constitution stood upon a very unstable foundation; but as I am convinced that no man of sense can be serious when he talks so, I fear no danger to either from this Bill; and as it will certainly be of some, and may be of very great advantage to this country, I shall be for its passing into a law.

The motion was then carried, on a division, by 95 to 16.

The Bill having met with greater opposition than was expected, there was, on the 21st of May, a Petition presented in favour of it from several merchants and traders, in the city of London, whose names were thereunto subscribed, alleging, "That the petitioners were of opinion, that the passing of this Bill into a law, might encourage persons of wealth and substance to remove with their effects from foreign parts into this kingdom, and increase the commerce and credit of this nation; and therefore praying that the Bill might pass into a law:" and that the House might see what sort of men the petitioners were, several of their names were upon motion read to the House.

The same day was presented by the sheriffs of London, a Petition of the lord mayor, aldermen, and commons of the said city, in common-council assembled, which Petition being read, expressed the apprehensions of the petitioners, "that should the said Bill be passed into a law, the same would tend greatly to the dishonour of the Christian religion, endanger our excellent constitution, and be highly prejudicial to the interest and trade of the kingdom in general, and the said city in particular; and therefore praying that it might not be passed into a law." Both which Petitions were ordered to lie on the table until the Bill should be read a third time; and next day a Petition was presented to the House and read, of the subscribing merchants and traders of the city of London, in behalf of themselves, and all other merchants and traders of Great Britain, alleging their being apprehensive, that the said Bill, if passed into a law, would in its consequences greatly affect our trade and commerce with foreign nations, and particularly with Spain and Portugal, and would also be attended with many other very bad effects to the kingdom; and therefore praying, that they might have leave, by themselves or counsel, to offer their reasons against passing the same into a law. Which Petition was ordered to lie on the table until the Bill should be read a third time, and that the petitioners might then be heard by themselves against the said Bill, if they thought fit; immediately after which, there was presented to the House and read, a Petition of the several merchants, traders, and manufacturers, shipwrights, and commanders of ships, whose names were thereunto subscribed, in behalf of themselves, and many other persons concerned in shipping, and in the woollen and other manufactures of this kingdom, alleging, "That the petitioners were of opinion, that the passing this Bill into a law, might encourage many persons of wealth and substance to remove with their effects from foreign parts into this kingdom, the greatest part of which, agreeable to the experience of former times, would be employed by them in foreign trade and commerce, and in the increasing the shipping, and encouraging the exportation of the woollen and other manufactures of this kingdom, of which the persons who profess the Jewish religion had, for many years last past, exported great quantities; and therefore praying that the said Bill might pass into a law." This Petition was likewise ordered to lie upon the table, until the Bill should be read a third time, which it immediately was, after some of the last petitioners against it had been called in, and their Petition being again read, they were heard, and they examined several witnesses in support of their Petition; after which, they being withdrawn, and the Bill opened by Mr. Speaker, a motion was made, that the Bill do pass. Upon this another motion was made, that the debate be adjourned until that day month. Upon which

The Earl of *Egmont* said:

Sir; by the motion now made for adjourning this debate to a distant day, I am at liberty to speak to both these questions; first, whether this Bill ought to pass at all? and secondly, whether it ought to pass at this time? The first of these questions depends wholly upon the merits or demerits of the Bill: the latter upon the weight of the arguments of the gentleman in the administration, who has just now spoken.

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I shall beg leave, in the first place, to consider those arguments; and in the next, to say something to the Bill itself.

The first reason given by the hon. gentleman why this Bill ought not to be postponed, but to be passed at this time, is, because he finds the nature of the Bill wholly misunderstood, even by the petitioners themselves, who have appeared at the bar, and consequently, that it must and will be greatly misapprehended by the nation, if it should end here: whereas, if the Bill should pass, it will become a law, printed, promulged, and fully known to the whole people, who will then see how much they have been imposed upon by some factious and designing men, who have stirred against it in the city of London, and have been dignified by the hon. gentleman with the title of 'the scabby sheep.'

Sir, I hope the gentleman will excuse me, for I neither want a proper regard for him, nor bear him any particular ill will; but it is impossible for me to avoid saying, that his reasoning in this instance is neither consistent with that candour which he professes, nor well founded in any respect. Upon what does he found it? Upon a question which he just before put to one of the petitioners at the bar, (which I own I thought a strange one at the time, after that person had been speaking very intelligently against it for half an hour,) 'Whether he understood what was the intention of the Bill?' To which he made answer, that 'He understood himself, and believed every body understood, that the intention of the Bill was to naturalize the Jews.' The gentleman takes advantage of this expression, observes, that the Bill is not a Bill to naturalize the Jews, but a Bill to take away the incapacities, which by the common law of the land, and by the statute laws, they now lie under to be naturalized; and from hence argues, that even the petitioners themselves against the Bill are ignorant of the nature of the Bill. But is this way of fishing for inaccurate answers out of the mouth of respectable merchants, coming humbly to lay their apprehensions upon a point of great national concern, in a regular and parliamentary way before you, a fair method of proceeding? Is there any dignity in this manner of debate? The gentleman at the bar spoke essentially the truth,—this is a Bill intended to naturalize the Jews, or it is a Bill intending nothing. Ninety-nine men in an hundred would have expressed themselves in the same manner upon the same question, and none, who had not conceived a mean and disrespectful opinion of this House, would have thought it necessary to have guarded what he said against a quibble (pardon the expression) of such a kind as this.

The next reason offered by the hon. gentleman, why we should immediately proceed to pass this Bill, is drawn from the respect due to the other House, who have agreed to it with almost a general voice—that the postponing the consideration of this Bill would be treating them with some degree of disrespect. To this I answer, that it seems to me, and I take it to have been always understood in this place, that it was more respectful to any Bill, or the advocates of any Bill, to let it fall gently by adjourning the consideration of it to a long day, than to cant it out of the House on a debate, with that resentment which I think the Bill does thoroughly deserve. Unless, therefore, the gentleman means by this respect to the other House, that we must pass this Bill, because they have been pleased to pass it, his arguments from the respect due to them makes nothing to his purpose.—I have great respect for the other House, because they are one of the three constituent parts of the legislature, and of equal importance to the constitution of this country with either of the other two. As such, I have dared, upon a very late occasion, to be their advocate myself against a very indecent abuse, which I should have blushed to have offered to any person, or in any place, upon any provocation. I mean the Bill,* still depending in this House, in opposition to which the banner of popularity has been displayed by those who, to the best of my memory, never acted under it before; and against which the democratical affections of the lowest orders of the people have been attempted to be moved, by reflections, as gross as vulgar, upon the whole body of the Lords. I opposed the levelling doctrines then urged, and I resisted the indignity then offered to that order. It was my duty so to do, and it is equally my duty now to resist the ill use attempted to be made of their authority, in order to restrain the freedom of our proceedings, and to employ an aristocratical influence upon this House.

The third and last reason of the hon. gentleman, why this Bill ought to pass at this time, is derived from the progress this Bill has already made in this House. It

* The Clandestine Marriage Bill.

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has been read a first time, a second time, committed, ordered to be engrossed and read the third time: and the question is now before you, that it should pass this day. Therefore what? Because in every stage of the considerations that have been had upon it, the advocates in favour of the Bill have out-numbered those who were against it, therefore they who have still offered further and stronger reasons against this Bill, are not to have any answers to those reasons. It is sufficient to be told the Bill has proceeded thus far, therefore it must pass now. But give me leave to say, this kind of talk is a very light treatment of the forms and orders of this House: if the forms and rules of this House, as to the course of Bills, are not contemptible, they are of use; and they can be of no use, unless they mean to give you opportunity, in every step, upon every law, to consider, and reconsider the subject-matter of that law, abstracted from any regard to the opinion which had prevailed at any time or times of debates before.

Permit me now, Sir, to consider the main question, Shall this Bill pass at all, or not? With my concurrence it shall never pass, and I will explain to you the motives which determine me to set my face against it. First, out of regard to religion and reverence to parliament; and next, for reasons grounded on the inutility, prejudice, and danger of the measure.

Sir, I shall not say much, or speak with any affectation, to the religious part: I nev er entertained straight or narrow principles as to religion, either in speculation or in practice. Reason and reflection have indeed convinced me, that a want of charity to all sects and descriptions of men, is not only very unbecoming, but very weak, and still more wicked. I do likewise abhor all that cant and hypocrisy, passion, and enthusiastic zeal, which seizes some, and is often put on by others, in regard to matters of this kind. But at the same time I know, that a serious sense of religion, and a real reverence for the established religion of every country, is essential to the safety of every individual, and to the very being of government itself. I think it therefore highly impolitic for this House, to bring the gravity of their sentiments upon this important point, into any doubt or question. And I am fully persuaded, that one or other of these two things must happen upon the passing this Bill into a law: either the public will be prevailed upon (by this countenance which you propose to give to the avowed enemies of the religion of your country) to look upon that religion as a mere fable, as conceiving it agreeable to that indifference which, though falsely, they will imagine you mean to shew upon that subject: or, if the corruption of these times have not depraved them so far as to think religion a jest, and Christianity a farce, they will view your conduct in a very odious light. If you stand in your right senses, you cannot, for your own sakes, as members of a civil society, wish that your influence upon the minds of the people should extend so far as in the supposition I have first put. In the latter case, you would do well to reflect what consequences may result from it to your own existence. If the opinions of the people are, either justly, or unjustly, so formed, as to believe (which, unjust as it would be, may still possibly be the case at this time) that parliaments have lost all attention to their civil liberties; and if, in the same temper of their minds, you should lead them into a farther error, and superadd a conviction that you sit equally loose to their religious rights; what support can you expect? How long can you hope to subsist as a parliament against the power which you say you annually raise, and conceit yourselves now able to controul, but which, without any doubt, may then treat you as the same power, raised by your predecessors formerly, treated them?

I speak, in the next place, to the inutility of the Bill. The benefit to arise from the admission of any foreign people upon earth can consist in these circumstances only; that they will bring over great treasures; that their numbers will increase the military strength and power of the state: that they will improve your manufactures, and extend your trade.

As to the treasures that will be brought over by this admission of the Jews, you have been told by great authorities at the bar, that in fact there are very few rich Jews to come from any part of the known world; and as things now stand, this country must be the place, in which all Jews of considerable property, who are here already, will remain, and to which all others will naturally come without the aid of this Bill: because the lenity of our laws, and security of property to men of all persuasions, affords a better protection to them than they can find in any other part of Europe. In point of privilege,

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whatever has been said, they enjoy none greater in any nation upon earth: we are told, that they are indulged in France to buy houses in the trading towns: and by law they have been entitled to this here for many centuries, though excluded from the right of purchasing any estates in land, which they are neither by law entitled to do here or any where else that I know of, or, as I stand at present informed, do believe, in the Christian world. If therefore they have neither considerable wealth to bring, nor want superior inducements already to come, it is nothing but a wanton spirit of innovation, of changing the old laws of England, and setting up for every novel institution (the very disease of the times) that can prompt us to this ungracious act.

But does any man expect any increase of strength or military power, from adding to the numbers of your people by the admission of the Jews? Though it be true, that in defiance of the fundamental laws of this country,—in direct contradiction of the very Act of Settlement itself,—foreigners are now actually listed, not only in your armies, but in the very guards;—and that in the instance of a late and signal infraction of the laws, aggravated by circumstances of unparallelled cruelty and oppression, and actually communicated this very session to this House, yet the very soldier named (after full notice of his case in parliament, and after petitioning for his discharge) is still by violence detained in the service:— and though this incontestably proves, that our armies cannot be completed out of our natural-born subjects, for I am not to suppose any power but necessity in this country to be above the law;— yet I will venture to say, that Jewish troops will not serve the purposes, either of the nation, the administration, or the crown. I must confess, however, that one purpose may be answered by their admission: the abomination in which they are held by the people of this kingdom, should they grow insolent, or obnoxious by their numbers, may provoke excesses against them, which, when all other arguments fail for a standing army, may furnish new ones for its support. For it is no extravagant supposition, should this Bill pass, that the consequence may hereafter be not only the establishment, but the employment of an army to knock our own Christian fellow-subjects on the head, in protection of our foreign Jews.

Sir, it is equally chimerical to propose any advantage from the manufactures or labour of the Jews, which have been both idly mentioned: whence are these manufacturing, these labouring Jews to come? I question whether any number of Jews at this time exercise any manufacture, or follow any laborious profession in any part of the known world; and in truth, from their obstinate superstition, and the total difference of their customs in every circumstance of life, it would be utterly impossible for them to mix with our people, were they never so well qualified for it in every other respect. But we are told—admitting all this, they may still greatly extend our commerce. Sir, if we flatter ourselves with any notions of this kind, we do it in opposition to all experience, both of ancient and modern times. The trade of the Jews, as it appears by the oldest of our histories, and the earliest records both here and in other countries, was usury, brokerage, and jobbing, in a higher or a lower degree. By this traffic, in former ages, they distressed and ruined the Christian subjects in such numbers every where, as to draw down upon them from time to time the resentment of all nations, and in this traffic they have improved so far in this age, as now to ruin whole kingdoms instead of individuals, by aiding ministers to beggar the states they serve, by which traffic also they have greatly aided to plunge this nation into a debt of near eighty millions; but for real commerce, and any honest trade of merchandize, even in this country, where the greatest opportunities of trade exist, where their people have the largest fortunes to carry it on, their dealings are so inconsiderable, that they do not deserve to be the object of our attention in any degree, otherwise than as the enquiry into the fact may prove the contrary of the pretence. For in truth, it will not be found, that of all the immense fortunes made by the Jews now subsisting among us, any one has been otherwise acquired than by contracts, subscriptions, commissions, and correspondencies, and all kinds of jobbing with the necessities of the public in the late war. Since therefore the naturalization of the Jews tends to no important addition of property to this kingdom; to no possible increase of strength; to no improvement in manufactures; to no extension of commerce; this Bill can be no measure of utility, and cannot merit the sanction of this House.



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I now come to lay before you the prejudice and danger which I apprehend from this Bill. The first relates to the commerce of the kingdom, and has been strongly stated by the gentlemen who spoke in behalf of themselves and other merchants of London at the bar. They have told you, that in Portugal, though many who are known to be Jews in their heart do reside there, yet any Jew would be burnt at a stake who avowed his religion, and did not put himself under the immediate protection of the Inquisition by the title of a new christian: that they really apprehend this aversion to be so violent, that when it shall be known in that country, that we have taken a measure of this kind in favour of that race, we shall be looked upon as the most impious nation upon earth, our merchants and houses there will stand in great danger,—and our commerce run the risk of being greatly impaired, if not totally destroyed: that at present our trade thither is of great profit to this kingdom, we being now treated as the most favoured nation: that France has been long assiduous at that court, to obtain a treaty which might put her upon the same footing with Great Britain, in respect to her commerce there; that hitherto, indeed, she has not succeeded, but there is great probability, that from the bigotry of that court, inflamed by that of the people of all degrees, she may carry her point if this Bill should pass. Sir, none of us are able to judge how probable such a consequence may be. I thank God, we are ourselves so free from this bigotted disposition, that we cannot easily raise our ideas to those absurdities, to which such notions carry the people of those countries; yet certainly for a measure of little or no utility at all, a risk of this nature, apprehended so much, and pointed out to you by the trading interest of this kingdom, who can judge of this better than we can, should not be run.

But inconveniences of this sort are considerations far inferior to the danger which this Bill threatens to bring upon the general establishment of this kingdom. I am to suppose that this Bill must have this effect, that the Jews who are now here, or who are to come here, will lay out vast sums of money in land. The advocates for this Bill have been imprudent enough to intimate, that this is their intention: this they avow to be one of the greatest benefits they expect from it, as it will raise the price of lands. Now, Sir, if this should not be the case, what has been already said proves that the Bill will have no effect, which is alone a sufficient reason why it should not pass: but if it should have this consequence, I do maintain it to be the most formidable and highly dangerous measure that ever was pursued; for it directly tends to the ruin, and even annihilation of the present landed interest of England. Of what importance is it to Englishmen, that the price of land in England should be raised, to this end only, that by this advance of the price the people may be tempted to throw those lands for ever into the hands of the Jews? The present English generation, who have now possession of the landed estates of England, are for once, indeed, to have the insidious advantage of being bought out of them at an advanced price; but nationally they and their posterity, for ever after, are to be deprived of their inheritances here, and the Jews are to remain for ever the landholders of Great Britain, and for ever after to enjoy our titles to this kingdom. In whatever degree this Bill is to operate by the sale of our lands to Jews, it operates more or less to turn the tables upon the Christians in favour of the Jews,—to put the Jews upon the ground of the English, and the English upon the present footing of the Jews. And suppose this Bill should only have an extensive operation of this sort, which it must have, and not an universal operation, which it may have in length of time, yet great estates in all the counties of England will of necessity fall, and that very soon too, into Jewish hands: then let me ask, whether it is possible that great estates should not give great influence? Let me follow it with another question, whether great influence, in whatever hands, will not be called upon to exert itself by the ministers of this country in all future elections? Let me pursue it farther with a third, whether this influence so acquired, so called upon to exert itself, will not be exerted? I say, that undoubtedly it will; for obnoxious as this Jewish interest will be, it must lean upon the administration for support. Every sect in religion not favoured by the people, or thoroughly countenanced by the law: all new bodies of foreigners, even to the third generation, do it for the same reason: and if we see this in the conduct of all who settle among us by denization or by naturalization: if we see it in the conduct of the dissenters of all deno-



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minations, and even of the Roman Catholics themselves, the latter of whom most commonly give their weight to the same scale; and the former too generally, and too openly, in several counties, and in many boroughs, form themselves into an avowed interest for the ministerial powers in all times: can any man doubt but that the Jewish dissenters will become in like manner the servants of the same power in all corporations of the kingdom, where they shall procure any establishment? And can it be doubted but that their establishment will be more potent in our boroughs, than those of the dissenters of any other denomination, as their riches are so much more considerable, and their union so much closer and more distinct, than that of any other set of dissenters in the nature of things can be?

That the Jewish landed influence in counties, and the Jewish dissenting interest in the boroughs, must and will act in this manner, and may even hereafter drive out every other dissenting interest of the kingdom, is not possible to be denied; from whence another argument arises, which I shall offer to you with great sincerity and great good-will to the peace and quiet of my country.

It has been thought, in the situation of the royal family at this time, by every prudent and every honest man, that every means should be pursued to maintain the present tranquillity of this country: many who think that they have public as well as private reasons enough to oppose ministers and measures, yet restrain themselves at this conjuncture, from these honest considerations. To this circumstance some men owe their undisturbed enjoyment of the great profits, and unexampled power of the high stations in which they stand. How, then, can we account for their infatuation, to call it no worse, of urging a measure like this against what cannot be known, without any immediate evidence of public alarm or resentment, to be utterly repugnant to the genius and sentiments of the people of Great Britain? Sir, it is no new thing that ministers should wantonly and weakly create confusion, and from a contempt of those they govern, raise an opposition themselves: but our ministers certainly are not aware how national, how general this opposition may probably become, which, from the times in which we stand, and from the tendency it may probably acquire, it is neither wise nor honest to provoke.

The present administration, are some of them the same men, others bred at least in the same school, most if not all of them able to remember the spirit that rose against their connection, and overthrew them, towards the end of the reign of queen Anne. The origin of that was a silly measure which jarred the same string with this. It is true they recovered their ground again, by the accident of the queen's death, and the accession of the present royal family to the throne. But let them take care now: if they overthrow themselves by the same wantonness, the same presumption, the same inattention to, or ignorance of, the true temper of the people, they possibly may fall never to rise again.

For my own part, dead as all spirit appears to be throughout the whole nation, I do verily believe that this Bill will rouze it, but in a way, of all others, in which I should least wish to see it rise. I detest the race the nation was hurried to run by that spirit which I have just now mentioned, and I rejoice that I know—and I have had opportunities to know it perhaps better than any man in this House—that a moderation, and a fair disposition to the present royal family, does exist (as much as they are traduced) in far the greater number of those who are descended from the warmest actors of those times. Nothing but your folly and extravagance in the pursuit of such measures as this, can bring them back into the passionate humours that appeared then. Sir, I have certainly, as to my own particular, no reason to apprehend a large minority. Though I expect it, I am sure that I do not desire to see one, which shall become so merely by the effect which this Bill may have upon the minds of men at the next general election; for it will be a minority of a sort with which I shall be as little able perhaps to concur, as the gentleman over the way to contend. Indeed, I am amazed that this consideration makes no impression, for so sure I am that this Bill will have an effect upon the people which you do not expect; that when that day comes, which is not far off, I shall not fear to set my foot upon any ground of election in the kingdom—(I who have spoke my sentiments and voted against the Bill) in opposition to any one man among you, or any new Christian who has appeared or voted for it; and so, do I verily believe, any other gentleman may do, who this day in this House shall act and vote with me.

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Sir, it is easy to be perceived, in almost every step that we have taken during this whole parliament, that we think ourselves wiser than all our ancestors for 700 years before us: for our business has constantly been to unravel all that, in respect to law and liberty, religion and commerce, they had established as the proper rule of government for this nation. We ridicule the narrow notions of our forefathers, and we applaud our own open and extensive understandings, which is carried to that ridiculous excess, that if a man talks of Magna Charta, or the Petition of Right, or of any of the fundamental constitutions of the kingdom, he is sneered and laughed at. If he talks of caution in admitting and countenancing every enthusiastic sect, he is a Jacobite or a Tory. If he talks against the hasty laying open of any branch of commerce, which from circumstances may stand upon a different footing from the rest, he is a man of little narrow principles, and trade is to be opened, though the plague were to be brought with it, or the conditions for that opening were to have slavery annexed. From the same conceit, from the same rage for novelty, and unlimited pursuit of general principles, when you talk of naturalization, no circumstances of our situation, in regard to the royal family now upon the throne, or to the jealousies of the people, are to be at all considered: no regard is had to the state of the laws actually now in being in Ireland or the plantations, where any man may acquire this privilege for half a crown; to the facility with which all who apply to the legislature for it, may obtain it here; to the general indulgence and protection of all those who come among us, though not naturalized, and exercise any art or manufacture; nor any reflection made how far these circumstances already answer every reasonable purpose of this kind. But general naturalization without exception is the word: naturalize all, rich and poor, Jews, Turks, infidels, and heretics, be they who they will, or what they will, or where they will; do it without any check or controul; do it without a power of remedy, let the consequences turn out ever so much counter to what you may expect.

Sir, it is not common sense, but downright madness, to follow general principles in this wild manner, without limitation or reserve; and give me leave to say one thing, which I hope will be long remembered, and well thought upon by all those who hear me: that those gentlemen who plume themselves thus upon their open and extensive understandings, are in fact the men of the narrowest principles in the kingdom. For what is a narrow mind? It is a mind that sees any proposition in one single contracted point of view, unable to complicate any subject with the circumstances and considerations that are, or may, or ought to be combined with it. And pray, what is that understanding which looks upon naturalization only in this general view, that naturalization is an increase of the people, and the increase of the people is the riches of the nation? Never admitting the least reflection, what the people are whom you let in upon us; how, in the present bad regulation of our police, they are to be employed or maintained; how their principles, opinions, or practice, may influence the religion or politics of the state, or what operation their admission may have upon the peace and tranquillity of the country. Is not such a genius equally contemptible and narrow with that of the poorest mortal upon earth, who grovels for his whole life within the verge of the opposite extreme?

Sir, this leads me to the last argument which I shall urge against this Bill, and it is not the least important. This Bill is a step to a general naturalization, which was very daringly attempted, but happily defeated, not above two years ago. The same spirit now animates those, who moved you then to attempt that hateful measure: they dare not openly avow the same design, but they artfully endeavour to bring it about again by this means; knowing full well how strong this argument must be hereafter, when you have passed this Bill, 'What! will you, who have consented to naturalize even the Jews, boggle at allowing the same privilege to foreign Protestants professing the Christian religion as you do yourselves?' But the nation, Sir, will see through this design, and by some means or other, I am confident, will defeat it now, as they did then.

I conclude what I have been led to say upon naturalization in general, and upon this naturalization of the Jews in particular, with this common proverb, 'That there is no rule without an exception,' and that if ever there should be an exception to any general principle, it ought surely to be in the case of the naturalization of that people, the very essence of whose character and religion consists in their abhorrence of Christianity, and rancour to the whole Christian race.

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The Question of adjournment was then put and carried in the Negative by 96 to 55. After which the question for passing the Bill was put and carried.*

* HARDWICKE PAPERS. Extract of a Letter from Dr. Birch to the Hon. Philip Yorke. London, June 23, 1753.

"The Post Office has, I presume, transmitted to you a sheet upon the true nature of the Jews Bill, of which Mr. Webb tells me, he designs likewise to give the public a right notion, by reprinting it with proper remarks, having obtained Mr. Basket's consent, who is the proprietor. The clamour against that act is now evidently designed to influence the election next year; and the rage of the people is ungovernable.—The bishop of Norwich was insulted for having voted for it, in several parts of his diocess whither he went to confirm; the boys at Ipswich in particular calling out to him for circumcision, and a paper being fixed up to one of the churches, that the next day being Saturday, his lordship would confirm the Jews, and the day following the Christians."

*The same to the same.*

"London, Sept. 29, 1753.

"The Jews Bill is likely, among many ill consequences, to have one good effect, in relieving the next parliament from the oratory of Mr. Sydenham, whose declaring for that Bill has rendered the city of Exeter implacable to him; though to acquit himself of Judaism, he dispersed printed papers, justifying his attachment to Christianity, and urging as a proof of it, his travelling on Saturdays, when his business required it, and his strict observance of Sundays. This, with some other reasonings of the same force, induced his friends to persuade him to suppress those papers, which he had not yet delivered."

*The same to the same.*

"London, October 20, 1753.

"Mr. Tucker acquainted me in a letter received yesterday, that his friends have advised him to add a second letter. On the other side there was published this day sennight a pamphlet of an hundred pages in 8vo, sold for sixpence, or distributed gratis, under the title of "An Answer to the Considerations on the Jews Bill." It is ascribed to Romaine; and has all the distinguishing characters of that writer, impudence, buffoonery, virulence, and insincerity. It asserts 'that the Jews have no God, no king, 'no country, and never act upon any higher prin-'ciple than self interest; 'that the present set 'of ——'[I presume he means bishops]' is the 'only one since the time of Christ, that would 'have countenanced so anti-christian a measure.' It cites with great triumph a nanecdote, as it is called, out of Raguenet's "Histoire d'Oliv. Cromwell," of the Jews having sent over several rabbis to make private inquiry, whether he was not their Messiah; from which Romaine, this pamphleteer, deduces several consequences, particularly that the Jews suppose that the character of their Messiah will be like that of the accomplished villain, Cromwell. The chapter pretending to shew from Scripture authority that we ought to have no commerce with that nation, is not to be matched out of the Church of Rome for falsification of the doctrine of the New Testament."

END OF VOL. XIV.

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Mr. Cobbett having disposed of his Interest in this Work, it is now published under the above general Title, and new Titles for the first twelve Volumes are printed, and ready for delivery upon application to the Printer, through the respective Booksellers.

Volume XV. is in the Press.—*Communications for this Work are to be addressed, as heretofore, to the Editor, 5, Panton Square, or the Printer.*

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III.

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